

ISSN 0971 – 3212

RELIGION AND LAW REVIEW

Volume XXX: No. 1
[2021]

Editor

Prof. M. Afzal Wani



Institute of Objective Studies

Institute of Objective Studies [IOS]

Founder-Chairman

Dr. Mohammad Manzoor Alam

Religion and Law Review [RLR]

Editor-in-Chief

Professor S. Khalid Rashid

Kulliyyah of Laws

International Islamic University, Malaysia

Editor

Professor M. Afzal Wani

University School of Law and Legal Studies, GGS Indraprastha

University, Sector-16C, Dwarka, Delhi – 110078

e-mail : m_afzalwani@yahoo.co.in

Address for Correspondence

Circulation Manager

Institute of Objective Studies

162, Jogabai Main Road, Jamia Nagar, New Delhi – 110025

Phones : [91-11] 26987467, 26981187, 26989253 *fax* : 26981104

e-mail : ios.newdelhi@gmail.com

Consultative Council, RLR

Justice Hon'ble Aziz M. Ahmadi <i>Former Chief Justice of India</i>	Prof Mohammad Hashim Kamali <i>Professor of Islamic Law</i> <i>International Islamic University, Malaysia</i>
Prof. Ala Eddin Kharofa <i>International Institute of Islamic Thought & Culture, Kuala Lumpur, Malaysia</i>	Dr. Ram Krishna Timalisina <i>National Law College, Nepal</i>
Prof. Md. Mizanur Rahman <i>University of Dhaka, Bangladesh</i>	Mr. M. M. Zuhair <i>Sri Lanka</i>
Mr. Yusuf Hatim Muchhala <i>Sr. Advocate, Mumbai High Court, Mumbai</i>	Professor (Dr.) M. Ayub Dar Dean and Head, School of Law University of Kashmir, Srinagar

RELIGION AND LAW REVIEW

Volume XXX: 2021

ISSN 0971 – 3212

Declaration

Place of publication	:	New Delhi, India
Periodicity	:	Bi-annual/Annual
Language	:	English only
Editor	:	Prof. M. Afzal Wani
Owner, Publishers & Printers	:	Institute of Objective Studies 162, Jogabai Main Road, Jamia Nagar, New Delhi – 110025

TRUTH OF THESE PARTICULARS IS CERTIFIED
SECRETARY GENERAL, IOS

Computer setting by Mohammad Naseem, New Delhi

Printed at: Bharat Offset Press, 2035, Gali Qasim Jaan, Delhi-110006

Religion and Law Review

Volume XXX: No. 1

2021

CONTENTS

Articles

- Need for a New Law to Protect Women from Publicly
Dehumanizing and Stigmatizing Atrocities 1-13

Prof. M. Afzal Wani

- Wrongful Detention or Conviction: Victims' Compensation 15-27

Dr. Kaleem Alam

- Child Labour in India: Problems and Perspectives 29-44

Dr. Ravinder Kumar

- The Citizenship (Amendment) Act, 2019: A Jurisprudential
Evaluation 45-60

Dr. Vandana Singh

Mehak Rai Sethi

Gunjan Arora

Special Article

- Evolving a Research Design for Study on Democratic
Parliamentary System and the Question Hour: Essence
and Understanding 61-99

Prof. (Dr.) M. Afzal Wani

Dr. Babita Singh

- UAPA: An Annual Reference Digest 2021 101-104

- Reports on Conferences/Seminars etc.** 105-185

- Two-day IOS on-line International Conference on
“Identification of Principal Foundations for Global Peace
(January 23 and 24, 2021)

- Two-day IOS on-line International Conference on Personality and Contribution of Dr. Mohammad Natsir as a National and International Thought Leader in 20th Century (February 6-7, 2021)
- IOS Kolkata Chapter and Aliah University organises 5 day Winter School on Islamic Studies (15 to 19 February, 2021)
- IOS on-line lecture on “Musharakah financing (joint partnership) and its Relevance in India” (February 20, 2021)
- IOS on-line national seminar on “Impact of Covid-19: A Gender Perspective” (March 8, 2021)
- IOS On-Line Lecture on “Role of Religious/Spiritual Institutions in the Management of Mental Health Problems” (April 5, 2021)
- IOS-MANNU Organises a Two-Day Webinar on ‘Islamic Sciences during Muslim Rule in the Deccan’ (April 7-8, 2021)

Obituaries

- IOS on-line condolence meet over the death of Maulana Wali Rahmani (April 8, 2021)
- IOS Condolence on the demise of Prof. Ishtiyaque Danish (April 16, 2021)
- IOS on-line condolence meet over the death of Prof. Ishtiyaque Danish (April 20, 2021)
- IOS Condolence on the demise of Prof. Refaat Ali Khan (June 9, 2021)

About Religion and Law Review 187-188

About the Institute of Objectives Studies 189-190

NEED FOR A NEW LAW TO PROTECT WOMEN FROM PUBLICLY DEHUMANIZING AND STIGMATIZING ATROCITIES

*Prof. M. Afzal Wani**

I. The Problem

Violence against women in the country is multifaceted and multidimensional calling for an earliest end through legal and extralegal measures. The legislature has so far enacted laws on various aspects of the violence against women that has severely existed for long in the form of dowry, dowry death, child marriage, trafficking, domestic violence and so. The other forms of violence not covered by any specific legislation need immediate legislative attention. One such form of violence that has existed since times immemorial is causing atrocities on women by dehumanizing and stigmatizing them in public. Under the pretext of being labeled as *dyain*, *jadogarni*, *tonhi*, *chudail*, etc. they are publicly beaten, burnt, made to parade naked through the locality, forced to eat human excreta, raped, defanged (teeth are pulled out), humiliated and put to pain by insertion of logs or other sharp objects in private parts, given bad names, put to shame by cutting their hair (also nose or other body-parts), frustrated by socially ostracizing their children, deprived of land and property by seizure, and sometimes lynched too and their limbs hacked off. There are social, psychological and economic reasons behind all such dehumanizing and stigmatizing atrocities like taking away their belongings, snatching away their assets, depriving them from inheriting property, not allowing them to live with proper dignity and compelling them to surrender their persons to local influential persons. These dehumanizing and stigmatizing mischievous actions cannot be stopped or controlled without a comprehensive legislation with effective legal machinery for implementation of that law.

*. Former Member, Law Commission of India.[m_afzalwani@yahoo.co.in].
The research materials and motivation received from Dr. Charu Wali Khanna, Former Member, National Commission for Women, New Delhi for preparing this piece is duly acknowledged. It was submitted for further processing.

Shockingly, these worst dehumanizing and stigmatizing actions are still unmet by our legislative process and, therefore, should be stopped by legislation forthwith.

II. An Assessment of Judicial Approach

Certain Important Cases

Burden of proof on the accused

Under the new law burden of proof should be on the accused because the whole community is involved in such offences and it is very difficult for the woman to prove that she has been victimized. In *Tula Devi and Ors. v. The State of Jharkhand and Anr.*,¹ one Sakuntala Devi used to be called and addressed as a Daain for two years and was further threatened that a Daain would not be allowed to live there. When her husband came to rescue her, he was also assaulted by the petitioners and with the intervention of the witnesses the complainant was rescued from being more assaulted. The accused had snatched the chain from the neck of the complainant made of gold worth Rs. 7,000/- with extending threat that in case of instituting a case she as well as her husband would be killed. Pronouncing her Daain by the petitioners all the time caused her mental agony and it was difficult for her to live in such a society. The appellants were tried under sections 147, 323, 341 of the Indian Penal Code, 1860 as well as under sections 3, 5 of the Prevention of witch (Daain) Practice Act, 1999 and convicted. In a petition under section 482 Cr PC for quashing of entire criminal proceedings, the High Court held that it was evident that the Complainant was addressed by the Petitioners as Daain but at the same time it was nowhere alleged in any manner that she had acquired such a black power to do harm to others or that she had in any manner caused harm to others. To substantiate the allegation of Daain the burden was upon the Complainant to prove that she was alleged by the accused persons in such a manner as is contained in the definition of Daain in the Prevention of witch (Daain) Practices Act, 1999 and therefore, the

¹ 2006(3) JCR222 (Jhr).

Court found that the cognizance of the offence under Section 4 of the said Act was illegal against the Petitioners (accused) and under Section 5 not maintainable since there is no provision as such in the Act.

Insufficiency of punishment

In *Dharma Girih v. The State of Jharkhand*,² there was hot exchange of words between the appellant and his step mother during which the appellant assaulted his mother with Lathi and legs. The Doctor found one lacerated wound 3"x4" bone deep over frontal region and one abrasion on right waist. In the circumstances, it was not be safe to hold that the appellant had intention to kill his step mother. Accordingly the conviction under Section 302 I.P.C. was converted into Section 304 Part II of I.P.C. So far as conviction under Section 4 of the Prevention of witch (Daain) Practices Act, 1999 was concerned, that was upheld. In the facts and circumstances of the case the impugned judgment of conviction and order of sentence was modified to the extent that the appellant was convicted under Section 304 Part II of I.P.C. and sentenced to the period undergone by him, i.e., about 10 years. He had already undergone the sentence under Section 4 of the Prevention of witch (Daain) Practices Act, 1999. The appellant was directed to be released from jail forthwith, if not wanted in any other case.

Inordinate delay in investigation

In *Samsul and Ors. v. The State of Jharkhand and Anr.*,³ the complainant had gone to Kashmir for his livelihood. On return he learnt that his mother was forcibly taken out by the petitioners (accused) towards Southern Bahiyar and killed. Her dead body was buried on the allegation that she was playing witch. The father of the complainant and the members of his family tried to rescue his deceased mother Manchurni Bibi but all the witnesses were kept confined by the

² 2013(1) AJR302.

³ Cr.M.P. No. 565 of 2003, Decided on: 16.06.2008.

accused persons who bolted the door from outside and the occurrence was given effect to in the night of 21.5.2001.

After 5/6 days of the alleged occurrence, when the father of the complainant attempted to inform the Taljhari Police he was held up by the accused and could not be allowed to inform the police. On 28.10.2001 the complainant lodged information to the police but he came to learn that only Station Diary Entry was made and F.I.R. was not lodged. Delay was explained that on account of helplessness of the family members the case could not be instituted at the police station. The High Court of Jharkhand held that in the instant case there was a serious allegation against the petitioners, ten in number, for committing murder of helpless woman on the pretext that she was playing witch. The occurrence as alleged was given effect to in prosecution of common object whereas other members of her family were restrained, while she was being taken out, killed and buried.

As it was a serious case, instead of initiating enquiry, what the learned CJM, Dumka was required to do was to send it under Section 156(3) CrPC for institution of police case and to file final form after investigation. During inquiry under Section 202 of the Code of Criminal Procedure the body of the mother of the complainant could not be recovered dead or alive and the learned Counsel for the petitioners consistently submitted that the petitioners have been falsely implicated.

In the facts and circumstances of the case, order impugned dated 27.3.2003 passed by the Judicial Magistrate, 1st Class, Dumka was set aside with the direction that P.C.R. No. 378 of 2001 be sent to the Dumka Police for institution of a regular case under Section 156 (3) of the Code of Criminal Procedure and to submit report under Section 173 of the Code of Criminal Procedure with the case diary after investigation before the competent Court.

Involvement of family-including husband and sister in law

In *Ashok Laxman Soboni and Anr. v. State of Maharashtra*,⁴ the appellant was convicted under section 302 IPC and sentenced to death, whereas his sister was convicted under sections 302/34 IPC and sentenced to imprisonment for life. Soon after the marriage relations of the appellant and his wife became strained and the happiness of the couple was barred by superstitious belief entertained by the appellant and other members of the family that his wife was witch and was practicing sorcery with the aid of beads, wooden snakes and other articles. It was also alleged that the victim appeared as possessed of a 'spirit' of one Meeravali Baba.⁵

According to prosecution, on the night intervening 14th and 15th January, 1975, Maghar Sankranti, some altercation ended in the death of the wife and the appellants tried their best to hush up the matter by arranging a quick and hastily cremation and by not informing their normal relations regarding the circumstances in which the death had occurred. The body of the deceased, covered with a *chader*, was placed on the stretcher in a van and taken to the cremation ground. The usual religious rites which were customary in the family were also not performed. Somebody informed the police that the deceased had died an unnatural death and that the matter was tried to be hushed up by the appellants who were the real murderers.

The Apex Court expressed surprise that superstitious beliefs still persisted in an age where science has made such progress and rationalism dominates over thinking. The baseless and unfounded superstitions when entertained by an educated person lead to a family disaster. One such case forms the subject of this appeal filed in this

⁴ AIR1977SC1319.

⁵ Meeravali Hills situate at a short distance from the place of occurrence contained a Muslim Dargah where an old saint Syed Ishaque Ali Shah had been buried since 1965. It appears from the evidence that Appellant and other members of the family were the devotees of this saint and so deep was the devotion of his sister appellant No. 2 that she got possessed with the spirit of Meeravali Baba himself.

Court after obtaining special leave. The courts below during the trial of the case clearly established that:

- (i) the appellants undoubtedly believed the deceased to be a witch;
- (ii) such a belief was totally unfounded and unsubstantiated;
- (iii) the accused were last seen with the deceased and the appellant held a stick with which he had given several strokes to the deceased while the sister was inciting and helping him to assault the deceased.

Even a false entry was made at the instance of the appellant that his wife had died due to sickness. An examination of these circumstances, therefore, unmistakably lead to the conclusion that the appellant had undoubtedly beaten his wife to death. He started beating her with various weapons right from 3.30 a.m. and stopped only after she was completely silenced.

The Counsel for the appellants contended that the appellants were under a *bona fide* belief that the deceased was a witch and was practising sorcery they never intended to cause her murder but only inflicted a simple, assault. The High Court held that they are, however, unable to agree with this argument. The apprehension that his wife was a witch was totally unfounded. No reliable evidence had been led by the defence to show that there was any substantial ground for entertaining this belief. Furthermore, the continuous beating his wife for one or two hours and leaving her only when she was silenced shows that he deliberately intended the murder of the deceased.

The courts below passed the sentence of death on the appellant. The High Court, however, felt that the accused was labouring under a hallucination, though unfounded, and there was no corpus *delicti* to know the nature and character of the injuries and assess brutal or dastardly character of the death reduced his sentence from death to life imprisonment. The conviction of his sister, altered from that

under Sections 302/34 I.P.C to one under Section 325/34 I.P.C and the sentence was reduced to two years' rigorous imprisonment.

Ordering fresh trial after two years on technical grounds

Thirteen accused, belonging to Dona Lanka village, formed themselves into an unlawful assembly on 28-2-1991 for the purpose of committing the murder of 5 women, suspecting that they were practising witch-craft against the villagers which had resulted in the deaths of several persons and contracting of diseases by several others. In pursuance of their unlawful assembly, the accused had murdered the aforesaid five women by beating them with stout sticks and rice founders. The High Court of Andhra Pradesh surprisingly held that the learned trial judge believing the case of the prosecution convicted the appellants under section 148 and 302 r/w 149, I.P.C. and sentenced them to imprisonment for life. It is not necessary to go into any further details of the case since we are satisfied that the convictions must be quashed, sentences set aside and the case remanded for de-novo trial by reason of a clear procedural irregularity committed in the trial of the case. It is not in dispute that Dona Lanka, the place where the incident took place, is a scheduled area.⁶

Usual discrepancies in witness dispositions

On 28.6.89, in *Ghuran Gonr v. State of Bihar*,⁷ the informant along with the deceased went to Dumar Tanr, at village Konmerla Murgikone, P.S. Jaldega, District Gumla to pick up grass as Gora Crop. While they were engaged in picking up grass the accused, armed with Balua came there and caught hold of the hair of the deceased woman and

⁶ *Kundla Bojjireddy and Ors. v. State of Andhra Pradesh*, MANU/AP/0104/1994. Place of occurrence was a schedule area - as per notification issued by Government, Code of 1973 was not applicable to schedule areas and Code of 1898 alone was applicable. Trial was conducted by three Judges - as per Section 350 of Code of 1898 he who hears alone must decide. Considering precedent, the trial was vitiated in the manner it was conducted and fresh trial was ordered.

⁷ MANU/BH/0635/2000.

told that she is a witch and therefore, he would kill her. She requested the accused not to kill her as she had not done anything. Though escaped from the clutch of the accused, he chased her and caught hold her hair again and assaulted her with Balua in the neck, as a result of which she fell down and thereafter the Appellant mercilessly gave Balua blow twice or thrice on the neck of the deceased and fled away with the arm. She died at the spot. The informant, who had seen the occurrence with his naked eyes, could not do anything to save the life of the deceased due to fear. Thereafter next morning the informant's husband along with others went to the police station and informed about the occurrence. The Officer Incharge of the Police Station visited the place of occurrence and recorded the *fardbeyan* of the informant Mangri Gorin upon which the case was registered and dead body was seized and sent for post mortem. Thereafter a formal FIR was drawn and after completion of investigation the police submitted charge sheet in the Court of SDJM Simdega.

The defence counsel pointed out contradiction in the evidence of prosecution witnesses and submitted that their evidence is not fit to be relied upon. The High Court of Patna (Ranchi Bench) held that it is well settled that in the deposition of the witnesses there are always normal discrepancies, however, honest and truthful they may be. Such discrepancies are due to normal errors of observation, normal errors of memory due to lapse of time, due to mental disposition such as shock and horror at the time of occurrence, and the like. It is equally well settled that when the discrepancies were comparatively of a minor character and did not go to the root of prosecution story, they need not be given undue importance. The High Court held that as noticed above, from perusal the evidence it appears that the deceased was murdered as her dead body was lying in the Dumar Tanr and here were cut injuries on the neck. In other words it is the admitted fact that she died not a natural death rather she was killed. From the side of the prosecution all the material witnesses including the two eye-witnesses have proved that it was the Appellant who gave Farsa blow on the neck of the deceased which resulted in her death. The learned Sessions Judge has taken notice of all facts and circumstances and come to a conclusion that the guilt of the Appellant has been proved beyond all reasonable doubt. Although

the defense tried to make out a case of land dispute but from the evidence it has been proved that the Appellant killed the deceased saying her a witch. It is, therefore, evident that there was a clear motive of the Appellant for killing the deceased. Hence the appeal was dismissed.⁸

Sensitivity shown by the High Court of Calcutta

A very *important Case* being quoted for sensitivity shown by the High Court of Calcutta and view on motive and common intention is *Bhaktu Gorain and Ors.v.The State*.⁹ In this case, in the early hours of an autumn morning one Keshari Mahatani was targeted for her magic power having evil effects upon family members of the villagers. She was intercepted on her way back from, a nearby pond accompanied by her daughter-in-law and was *gheroed* on all sides by the five accused armed with Tabla, Tangi and Lathi. In response to their hue and cry, her two sons, other relatives and co-villagers reached and witnessed a dastardly attack perpetrated on the wretched widow causing her instantaneous death. Accused, however, made good their escape. Such a ghastly murder was a fall out of yester-night's altercation between the victim and accused, who had been to her house for extending threat over the issue of exercise of magical powers causing evil effects upon the villagers.

⁸ Referred to was judgment of the Apex Court in the case of State of H.P. v. Lekh Raj, (2000)1 SCC 247 as follows: In support of the impugned judgment the learned Counsel appearing for the Respondents mainly attempted to point out some discrepancies in the statement of the prosecutrix and other witnesses for discrediting the prosecution version. Discrepancy has to be distinguished from contradiction. Whereas the contradiction in the statement of the witness is fatal for the case, Minor discrepancy or variance in evidence will not make the prosecution's case doubtful. The normal course of the human conduct would be that while narrating a particular incident there may occur minor discrepancies, such discrepancies in law may render credential to the deposition. Parrot-like statements are disfavoured by the Courts. In order to ascertain as to whether the discrepancy pointed out was minor or not or the same amounted to contradiction, regard is required to be had to the circumstance of the case by keeping in view the social status of the witnesses and environment in which such witness was making the statement.

⁹ 2010 CrLJ 4524.

The High Court of Calcutta observed that the deep rooted prejudices and superstitious beliefs of the Middle Ages have not yet died down amongst the die-hard members of the tribal community even on the threshold of the millennium. That is why towards the last decade of the nineteenth century in a remote hamlet of Purulia district a sexagenarian tribal widow was done away with by some of the co-villagers in a ruthless manner in the presence of her siblings, other family members and co-villagers since it was suspected that because of her witch craft a fellow villager's wife suffered protracted ailments.

Declaring the case as falling within the purview of Section 302, IPC, the court observed that the offender had a positive intention and knowledge; at least three accused assaulted the victim with the intention of causing death or with a definite knowledge that bodily injuries inflicted by them would cause death. Motive prompts a man to form an intention. Knowledge and intention in many cases merged into each other and intention can be presumed from knowledge. Therefore, intention to cause injuries which would be sufficient in the ordinary course of nature to cause death is enough to bring the Appellants within the ambit of Section 302, IPC. Here such intention to cause death is clear from the nature of injuries inflicted upon the victim with deadly weapons like *Tangi*, *Tabla* and *Lathi* as well as other legal evidence and surrounding circumstances on record. There was a clear meeting of minds of all the accused and their motive to kill the so-called witch, who produced evil effects upon the villagers by exercise of her magic power, is quite obvious from the materials and circumstances on record. We, therefore, feel convinced to hold that the heinous crime perpetrated by the appellants undoubtedly comes within the ambit of Section 302, IPC.

The existence of common intention can easily be inferred from attending circumstances of the case and conduct of the parties so available from the incident of previous night when accused persons had been to the house of the victim and called her a witch and expressed their resentment in unequivocal term for illness of the wife of one of the Appellants. They appeared on the scene of crime with a determined bid to annihilate the so-called witch.

The High Court put on record a note of caution on the devastating effect of such meaningless atrocities and senseless killing of innocent aged and infirm widows in the name of witch. It haunts such helpless aged women like a nightmare eroding their mental peace demanding an urgent dispelling of ingrained dogmatism and orthodoxy.

The above judicial responses are not in any way sufficient to control publicly dehumanizing and stigmatizing atrocities against women. They only justify an immediate legislative action by the Parliament.

III. Requirement of Immediate Parliamentary Action

A central legislation is need of the hour because such compelling issues are adversely affecting the image of the country globally even after more than six decades of independence. The problem needs monitoring at the national level for further reason that it is no more a localized mischief or a concern of only tribal regions. The menace has become apparent in its various forms in non-tribal settlements also and has virtually its tentacles extended to all places in the country in various facets. The terminology of the 'sin' has been now found apparent in all rural and urban settings which is a reality and has to be accepted and dealt with.

The nation should no more ignore the constitutional obligation of promoting respect for women which is apparent from all the provisions of Part-III and Part-IV of the Constitution of India. No person should be given a right to denigrate other's right to 'person and reputation' rather every person should be made to discharge all his constitutionally recognized fundamental duties, especially:

- (e) To promote harmony and the spirit of common brotherhood amongst all people of India transcending religious, linguistic and regional or sectional diversities and to renounce practices derogatory to dignity of women.
- (h) To develop scientific temper, humanism and the spirit of inquiry and reform.

Worst to be clogged is the so far unplugged traditional aperture that allows atrocities on women which are counted as the most shameful violations of the International Conventions like CEDAW and others. The new law should at least focus on the control of the following facets the mischief:

- (i) Identify various atrocious actions prevalent in society at various places and levels across the country which are of the nature of dehumanizing and stigmatizing women in public.
- (ii) Take cognizance of the reasons for dehumanizing and stigmatizing atrocities perpetuating against women, such as, their refusal of sexual favours to unscrupulous persons in society, refusal by widows to relinquish claim over their husband's property, patriarchal attitudes, suspicion of adultery, lack of education and health services, antiquated practices of dehumanization and stigmatization of women by calling names and vengeance through sex.
- (iii) Take care of women who are dehumanized or stigmatized in India and often do not seek any legal or police assistance due to shame, isolation, poverty, desperation, social deprivation, caste, fear of further dehumanization in the absence of sufficient legal support.
- (iv) Ensure proper action is taken after the matter is reported to police and an arrest of the perpetrators of violence is made.
- (v) Ensure that after police action the woman is not left unsafe to bear the brunt and is not further injured, dehumanized and stigmatized by others in the locality.
- (vi) Prevent continuous ostracization of women in their villages or localities, living with no means of sustenance.

- (vii) To enable next of the kin/s of a woman to get compensation or relief if she is murdered or loses life by any dehumanizing and stigmatizing atrocities.
- (viii) No woman is beaten or beaten until she falls down unconscious or subjected to any other kind of dehumanizing and stigmatizing atrocities.
- (ix) Prevent vengeance penalizing a woman for her being conscious, active and rebellious.
- (x) Provide better legal frame for prevention of brutalization of a woman by calling her names or by subjecting her to any other dehumanizing and stigmatizing act in addition to mild treatment of these offences under section 323 of the Indian Penal Code (IPC), which prescribes one year's imprisonment and Rs.1,000 fine to anyone who causes such harm.

IV. Conclusion

In the absence of a special central law it is not possible to plug traditional apertures that allow atrocities on women which are the most shameful violations of the International Conventions like CEDAW and the Constitution of India. The law should identify various atrocious actions prevalent in society at various places and levels across the country and provide for taking cognizance of the reasons for dehumanizing and stigmatizing atrocities perpetuating against women. The authorities leave no stone unturned to take of women who are dehumanized or stigmatized because they often do not seek any legal or police assistance due to shame, isolation, poverty, desperation, social deprivation, caste, fare of further dehumanization in the absence of sufficient legal support. Better legal frame for prevention of brutalization of a woman should replace the mild treatment of these offences under section 323 of the Indian Penal Code. The insufficient judicial responses on controlling publicly dehumanizing and stigmatizing atrocities against women further justify an immediate legislative action by the Parliament.

WRONGFUL DETENTION OR CONVICTION: VICTIMS' COMPENSATION

*Dr. Kaleem Alam**

Abstract

The rise in acquittals of long detained individuals are welcome news but that also infers that the individual was wrongfully incarcerated. This paper tries to present how a minimum compensation can be calculated along with the judgement, rather than the victim appealing for compensation separately in a new court battle.

Keywords: *Wrongful Detention, Compensation, Human Rights, Justice.*

On March 03, 2021, The New Indian Express carried a news headline: '*Falsely accused of rape, UP man freed after spending 20 years in jail*' (Bajpai, 2021) - a very good news report indeed; he is free man finally. Then on March 06, 2021, Inquest News carried the following headline: '*Surat court acquits 122 alleged SIMI members after 19 years of arrest*' (Inquest News, 2021) - another happy ending; freed at last. Their liberty and freedom are restored! But there was something missing in the news, that is, what about the suffering they endured over these periods. Why should they not be compensated for being wronged by the state? This reminds of the famous quote from Judge William Blackstone: '*It is better than ten guilty persons escape than one innocent suffer*' (Khan, 2021). However, it seems that is not the concern for most of our courts, perhaps because many don't recognize that the 'wronged' must be compensated.

Charles Wegg-Prosser, Chairman of Committee of a report prepared by JUSTICE entitled 'Compensation for Wrongful Imprisonment' (Wegg-Prosser, 1982) writes, "*One of the conditions of an ordered democratic society is that every citizen should submit himself to the laws of the land in which he lives and to the jurisdiction of those who are authorized to administer and enforce them. , if he is suspected of having committed a criminal offence, he*

* Researcher, Islamic Economics Institute, King Abdulaziz University, KSA.

may be arrested and detained in a police station, charged, brought in front of a magistrate and, if the offence is serious, tried in the Crown Court. If he is found guilty and has exhausted any right of appeal, he may exercise then he has to accept the penalty and the consequences which flow from it be the imprisonment, or fine, or loss of reputation, property and livelihood.” He continues by explaining that *“All those who participate in the administration of criminal law at various levels, including juries, are acting on behalf of society as a whole. As they are human, it is inevitable that mistakes will be made. There are inherent dangers of error and injustice in the accusatorial system of trial..”*. Yes, indeed; mistakes are bound to happen, but there must be remedies to rectify the suffering of those who have been unjustly brought through this distress while under detention or awaiting trial (undertrial).

The United Nations, realizing the seriousness of the issue, initiated the ‘International Covenant on Civil and Political Rights’ which was adopted and opened for signature, ratification and accession by General Assembly Resolution 2200A (XXI) (OCHR, 2021) on December 16, 1966 and came into force on March 23, 1976. India ratified it and it became effective from July 10, 1979 (Wikipedia, 2021). The Covenant had the following requirements:

Article 9(5) Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation. (OCHR, 2021)

Article 14(6) When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him. (OCHR, 2021)

The Human Rights Council of United Nations in its resolution 20/16,8 directed the Working Group on Arbitrary Detention to make

a study “Principles and Guidelines on the right of anyone deprived of his or her liberty by arrest or detention to bring proceedings before a court, in order that the court may decide without delay on the lawfulness of his or her detention and order his or her release if the detention is not lawful” (Working Group on Arbitrary Detention, 2015) and present it before the Council Basic before the end of 2015.

The working group submitted before UN General Assembly on 04 May, 2015 with 17 principles and 22 guidelines covering from ‘Scope of application’ to ‘Implementation measures’ - WGAD/CRP.1/2015. In its introduction it mentions the following “The right to challenge the lawfulness of detention before a court is a self-standing human right, the absence of which constitutes a human rights violation.” (Working Group on Arbitrary Detention, 2015). Indeed, ease to reach court by wronged or those who assume that they have been wronged is very basic human rights.

In 2017 in India, it was realized that a mechanism was required for determining appropriate levels of compensation for those wronged in this way. Accordingly, the Delhi High Court, on 30 November, 2017, directed the Law Commission of India to undertake a comprehensive examination of the issue of relief and rehabilitation for victims of wrongful prosecution and incarceration (ANI, 2021).

On 30 August, 2018, within a year, the Law Commission of India, Chaired by Dr Justice B. S. Chauhan, Former Judge, Supreme Court of India, submitted Report No. 277 (Chauhan, 2018) ‘Wrongful Prosecution (Miscarriage of Justice): Legal Remedies’ to Shri Ravi Shankar Parsad, Minister of Law and Justice, Government of India. Justice Chauhan in his letters attached to the report wrote the following: *‘Article 21 of the Constitution provides for protection of life and personal liberty of the citizens. The infringement of a fundamental right due to police and prosecutorial misconduct invokes State liability. The Constitution, which secures the fundamental rights, is silent about grant of compensation by the State for infringement of such fundamental rights. Even under other remedies available under the existing system, the mechanism of compensation for miscarriage of justice resulting in wrongful prosecution remains complex and uncertain’.*

The report notes that 67.2% of prisoners in Indian prisons were awaiting trial (people who have been committed to judicial custody pending investigation or trial by a competent authority), based on data provided by Prison Statistics India – PSI. This is the highest proportion of prisoners awaiting trial in the world, the 16th highest (out of a total of 217 countries) and 5th highest in Asia, while the convicts account for only 32%. The report also notes that 25.1% of the total awaiting trial had spent more than a year in prison; 17.8% spent up to 1 year in prison awaiting trial. It noted that 64.8% of those awaiting trial spent more than 3 months in the prison. The report acknowledged that *‘undertrials spent a substantial period of time awaiting trials/judicial determination of their case. This delay and waiting becomes a graver miscarriage of justice when the person is wrongfully accused and incarcerated pending trial/proceedings, which he should not have been subjected to in the first place.*

The report recommends the *‘enactment of specific legal provision for redressal of cases of miscarriage of justice resulting in wrongful prosecution’*. It also adds that *‘the injustice caused to the innocents needs to be redressed within the framework of rights and not ex gratia by the State. The other being that there needs to be an established legislative process according a transparent, uniform, efficacious, affordable and timely remedy for the loss and harms inflicted on the victims on account of wrongful prosecution’*. It recommends the establishment of ‘special courts’ to deal with claims within a prescribed time.

It would have been better if the Law Commission would have recommended that in cases where a person is wronged, the court must compensate the wronged party within the judgement pronounced. Consider the case of Mohd. Jalees Ansari & Ors. v. Central Bureau of Investigation, *‘when the victim’s brother was asked to file a Compensation Petition, he said that we are financially and mentally drained and have no will to fight another dubious legal battle; we sacrificed everything we had to get my brother home’* noted by Lawctopus (Garg, 2020). Or consider another case, cited by Lawctopus, which is that of Nisarudin, penalized under TADA in 1993, but later exonerated by the Supreme Court on May 11, 2016 (23 years in detention, he was 19

when arrested). His financial condition prevented him from filing a plea for compensation (Garg, 2020).

Imprudent recommending for another round of legal battle

Consequently, recommending the victim to approach a 'special court' for another round of legal battle is not prudent.

While recommending the compensation, the report adds the following *'at this point, it does not appear feasible for the law to lay down a fixed amount of monetary compensation to be paid, the law will include the guiding principles/factors that a Special Court will be required to consider while determining the compensation including the amount of monetary compensation'*. However, report recommends that compensation can include both *'pecuniary and non-pecuniary assistance to effectuate the rehabilitation of these victims of wrongful prosecution into society'* (Chauhan, 2018). On page 78, the report answers to crucial question 'What amounts to Wrongful Prosecution?' According to the report its due 'procedural misconducts - police or prosecutorial, malicious or negligence'. The report has eight illustrations (Chauhan, 2018) of misconduct as given below:

- (i) Making or framing a false or incorrect record or document for submission in a judicial proceeding or any other proceeding taken by law;
- (ii) Making a false declaration or statement authorized by law to receive as evidence when legally bound to state the truth – by an oath or by a provision of law;
- (iii) Otherwise giving false evidence when legally bound to state the truth - by an oath or by a provision of law;
- (iv) Fabricating false evidence for submission in a judicial proceeding or any other proceeding taken by law;
- (v) Destruction of an evidence to prevent its production in a judicial proceeding or any other proceedings taken by law;

- (vi) Bringing a false charge, or instituting or cause to be instituted false criminal proceedings against a person;
- (vii) Committing a person to confinement or trial acting contrary to law; or
- (viii) Acting in violation of any direction of law in any other manner not covered in (i) to (vii) above, resulting in an injury to a person.

I believe, if the ‘minimum monetary compensation’ guideline had been included in the report, this would have greatly enhanced the value of this report (277).

Recommendations about equitable minimum compensation

I make the following recommendation for calculating the equitable minimum compensation for wronged individuals:

1. The calculation must be equated to a day’s value so that if a person is jailed for a year it can be multiplied by 365 or equivalently as per his actual number of days spent.
2. I would propose the use of daily wage recommendation published by Ministry of Labour & Employment, Government of India.
3. For the ease of judicial process in setting minimum compensation, I would propose the use of wage recommendation for unskilled industrial worker category B. This would be modest and fair to all.
4. So, the minimum compensation for a day is given below, both in number and percentages. The use of percentages is better for future use as government recommendation is revised from time to time. I have not used dearness allowance; instead, I propose the use of average inflation of

5% to be added at beginning of each New Year. So, the minimum compensation for a day must read as given below:

<i>Minimum Daily wage</i>	<i>₹ 437.00</i>	<i>Percentages</i>
Loss of Goodwill	₹ 100.00	23%
Loss of Comfort	₹ 75.00	17%
Mental stress	₹ 150.00	34%
Health Care	₹ 75.00	17%
Legal Fee	₹ 200.00	46%
Rehabilitation	₹ 250.00	57%
Daily Compensation	₹ 1,287.00	x365 (year) ₹ 469,755.00

5. Assuming that, for the coming two years. the government's daily wage recommendation remains constant, then the minimum compensation for a day in accordance with the 5% inflation rate would be as given below:

Year 2 Inflation 5% Day ₹ 1,351.35 Year ₹ 493,242.75
 Year 3 Inflation 5% Day ₹ 1,418.92 Year ₹ 517,904.89

6. Thus, if anyone has spent 3 years under wrongful conviction, his compensation should be a minimum of ₹ 469,755.00 (year 1) + ₹ 493,242.75 (year 2) + ₹ 517,904.89 (year 3) totalling to be ₹ 1,480,902.64.
7. In addition to the above compensations, the Government must award ₹ 50,000 for each completed year of incarceration as an apology.
8. In case of proven frame-up by authorized agencies (such as Police, CBI, Tax officer, narcotics, anti-terror, etc), then the Government must add ₹ 500 a day to the wronged person's compensation in addition to above minimum compensation.

This additional amount must be deducted/taken from the concerned officer or officers. Mr Ravi Nair, executive director of South Asia Human Rights Documentation Centre says *“The fact is there is no compensation for people held for so long. The fact that there is no prosecution of policemen who plant, forge or manufacture evidence to keep these people under trials for so long in itself indicates the judicial system is not working,”* (Kuchay, 2021).

9. For those bailed out, their minimum daily wage, loss of comfort, health care and rehabilitation, can be deducted, instead, ₹ 115 can be added towards transportation, food, and daily absence from work while calculating daily minimum compensation. This is important, take the case of Mr Hai *“After spending 14 months in jail, Hai was granted bail by India’s Supreme Court in 2002. But that was not the end of his ordeal.*

Every week for several years, Hai, now 66, would travel more than 700km (430 miles) from his home in Jodhpur to present himself before the police in Surat. Twice a month, he made the same journey to appear before a judicial magistrate in the Gujarat city.” (Kuchay, 2021).

10. The calculation must be from the date the wronged individual leaves prison.
11. It is important that the compensation is pronounced along with verdict.

Conclusion

A transparent and assured compensation process will encourage law firms and lawyers to take up lawsuit on a ‘no win, no fee’ basis.

One must not forget that there are other consequences of wrongful convictions and detentions:

1. The real culprit is still at large.
2. Possibility of more crime by the real culprit.

3. Loss of Income from TAX (from wronged individual).
4. Extra cost on the management of prison.
5. Extra cost on food in prison.
6. Extra cost on Laundry.
7. Extra cost on Maintenance and hygiene of prison.
8. Courts' time lost adding to further delay in other cases.
9. Missed social contribution and innovation from the wronged individual.
10. Possibility of developing a criminal mindset in wronged individual.

Compensation would mean that the government, judiciary and society exercise care when an individual is wronged. However, India expressed some reservation regarding compensation for wrongful detention in the International Covenant on Civil and Political Rights. Consequently, Indian courts have been awarding compensation to some and denying it to many others. Some examples are given below of inconsistencies in compensation decisions:

1. In 2018, the Supreme Court awarded Nambi Narayanan, former Indian Space Research Organisation (ISRO) scientist, compensation of ₹ 50 lakhs (5 million). An additional ₹ 10 Lakh (1 million) was recommended by the NHRC. In August 2020, the Kerala Government gave ₹ 1.3 crore (13 million) additional compensation. (Nair R. , 2021).
2. Ram Lakhan Singh was awarded ₹ 10 Lakh (1 million) for spending 11 days in Jail and for pursuing the case over 10 years. (Khan, 2021).

3. SI was awarded ₹ 5 Lakhs (half million) in compensation for humiliation and illegal detention for 30 minutes – August 01, 2000. (Press Trust of India, 2019).
4. The Bombay high court's (HC) Aurangabad bench directed the state government to compensate two men with the sum of ₹ 50,000 each as they had been illegally detained for six days in 2013. (The Wire Staff, 2020).
5. Rudal Shah was unlawfully detained for 14 yrs. The Supreme Court awarded ₹30,000 as compensation. (Khan, 2021).
6. Gopal Shete, wrongfully convicted of rape, was exonerated after 'seven years', no compensation was made. His wife had remarried, and his daughters had to live in an orphanage. He was earning ₹ 50,000 at the time of arrest, but is now seeking means of reasonable earnings. (Garg, 2020)

In July 2016, a bench comprising of Justices Dipak Misra and R. Banumathi while hearing the plea for compensation on Akshardham case of 2002 said it would set a '**dangerous precedent**' (PTI, 2016) if the acquitted persons were allowed to claim compensation for their 'wrongful' arrest.

Colin Gonsalves, a noted human right activist asks '*why should it not be ₹ 1 crore (10 million) a year for taking a person's liberty away with mala fide intent*' (referring to Akshardham case) in an interview to Smitha Nair, published on February 14, 2021. (Nair S., 2021)

Considering the above cases, it appears very obvious that the compensations are very arbitrary and, in some cases, unfair. Hence uniformity and transparency in compensation is urgently required. The above model is just suggestive and I believe it can be imitated in any country where the minimum daily wage is published by governments. It is important that the judiciary must be perceived as consistently fair and just to all in its judgments.

References

- ANI. (2021, March 11). *Plea in SC seeking guidelines for compensation to victims of wrongful prosecutions*. Retrieved from The New Indian : <https://www.newindianexpress.com/nation/2021/mar/11/plea-in-sc-seeking-guidelines-for-compensation-to-victims-of-wrongful-prosecutions-2275257.html>
- Bajpai, N. (2021, March 03). *False accused of rape, UP man freed after spending 20 years in jail*. Retrieved from The New Indian Express: <https://www.newindianexpress.com/nation/2021/mar/03/false-accused-of-rape-up-man-freed-after-spending-20-years-in-jail-2271749.html>
- Chauhan, B. S. (2018). *Wrongful Prosecution (Miscarriage of Justice): Legal Remedies*. Delhi: Law Commission of India.
- Garg, E. (2020, November 1). *The Lost Right to Compensation of Wrongfully Convicted Victims: A Critique*. Retrieved from academike: <https://www.lawctopus.com/academike/the-lost-right-to-compensation-of-wrongfully-convicted-victims-a-critique/>
- Inquest News. (2021, March 6). *Surat court acquits 122 alleged SIMI members after 19 years of arrest*. Retrieved from inquest.org.in: <https://inquest.org.in/surat-court-acquits-122-alleged-simi-members-after-19-years-of-arrest/>
- Khan, S. (2021). *Belittle Right To Compensation For Wrongful Conviction*. Retrieved March 27, 2021, from Legal Service India - E Journal: <http://www.legalserviceindia.com/legal/article-4479-belittle-right-to-compensation-for-wrongful-conviction.html>
- Kuchay, B. (2021, March 9). *127 Indian Muslims charged with 'terror' acquitted after 19 years*. Retrieved from Al Jazeera News: <https://www.aljazeera.com/news/2021/3/9/127-indian-muslims-charged-with-terror-acquitted-after-19-years>

- Nair, R. (2021, September 10). *How Fair is Compensation for Human Rights Violations in India?* Retrieved from The Leaflet: <https://www.theleaflet.in/how-fair-is-compensation-for-human-rights-violations-in-india/#>
- Nair, S. (2021, February 14). *Colin Gonsalves interview: 'Policemen who pursue malicious prosecutions should face crippling fines'*. Retrieved from scroll.in: <https://scroll.in/article/986669/colin-gonsalves-interview-policemen-who-pursue-malafide-prosecutions-should-face-crippling-fines>
- OCHR. (2021, 03 13). *International Covenant on Civil and Political Rights*. Retrieved from OHCHR: <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>
- Press Trust of India. (2019, June 13). *SI awarded Rs. 5 lakh compensation for humiliation, illegal detention*. Retrieved from Business Standard News: https://www.business-standard.com/article/pti-stories/si-awarded-rs-5-lakh-compensation-for-humiliation-illegal-detention-119061301179_1.html
- PTI. (2016, July 5). *Akshardham terror attack case: SC refuses compensation plea of acquitted persons*. Retrieved from The Indian Express: <https://indianexpress.com/article/india/india-news-india/akshardham-terror-attack-case-sc-refuses-compensation-plea-of-acquitted-persons-2895251/>
- The Wire Staff. (2020, December 28). *Illegal Detention: Bombay HC Directs State Govt to Compensate Two Men With Rs. 50,000 Each*. Retrieved from The Wire: <https://thewire.in/law/bombay-hc-compensation-two-men-illegal-detention-arrest>
- Wegg-Prosser, C. (1982). *Compensation for Wrongful Imprisonment*. JUSTICE Educational and Research Trust. Cambridge: JUSTICE.
- Wikipedia. (2021, March 9). *International Covenant on Civil and Political Rights*. Retrieved from en.wikipedia.org: <https://en.wikipedia>

.org/wiki/International_Covenant_on_Civil_and_Political_Rights

Working Group on Arbitrary Detention. (2015). *United Nations Basic Principles and Guidelines on the right of anyone deprived of their liberty to bring proceedings before a court*. New York: United Nations.

CHILD LABOUR IN INDIA: PROBLEMS AND PERSPECTIVES

Dr. Ravinder Kumar*

Children are universally recognized as the most important assets of any nation. They are considered to be the future of any society and economy. Thus, the future of a society directly depends on how the successive generations are reared and brought up. If they are deprived of their childhood – socially, economically, physically and psychological, the nation gets deprived of potential human resources for progress, economic empowerment, peace and order, social stability and good citizenry.

According to the United Nations Children's Fund (UNICEF) and the International Labour Organization (ILO) in a 1998 Report, there are about 250 million children in the world, under the age of 14, working full time to earn a daily wage ("Eliminating Child Labour", 2001). Moreover, there are about 150 to 200 million children, who work to provide for their families.¹ The most of the countries where child labour is widespread, 80% of working children work 7 days a week. In Asian countries, 90 million children work. In South Asian countries, there are an increasing number of young girls taken to prostitution. Also, the study found that boys aged between 6 and 10 are shipped to the Middle East to do intensive work.

In case of developing countries, poverty is considered as one of the major push factor for child labour, this may occur where adults who are parents and labourers do not earn enough to support their families and as a result they end up sending their children to work. The child labour issues are more complex as some aspects of this labour continue to remain outside the reach of the law, such as domestic labour.

* Associate Professor, University School of Law and Legal Studies, Guru Gobind Singh Indraprastha University, Delhi.

¹ <http://www.law-essays-uk.com/resources/revision-area/human-rights-law/child-labor-working.php>.

A. Child Labour – Definitions

The term child labour is used for employment of children below a certain age, which is considered illegal by law and custom.² However, the stipulated age varies from country to country and government to government. Child labour is a worldwide phenomenon, which is considered exploitative and inhuman.

Child labour, as defined by the International Labour Organisation, refers to work that leads to the deprivation of one's childhood and education opportunities. Effects include a loss of potential and dignity in itself, which is harmful to a child's physical and mental development.³ Child labour can be defined as the employment of children under the age of 18 years, it is considered by many people as the exploitation of children, and it is also considered to violate universal schooling and children rights.⁴ Children perform duties in factories, agriculture, domestic work, tourist guides, businesses and restaurants as waiters, extreme forms of child labour include child soldiers, trafficking and child prostitution.

The term 'child labour' is defined as work that deprives children of their childhood, potential and dignity and that is harmful to their physical and mental development.

Any child out of school is a child labour. The definition of child labour therefore, encompasses every non-school going child irrespective of whether the child is engaged in wage or non-wage work or whether he or she is working for the family or others, employed in hazardous or non-hazardous occupations, employed on a day to day wage or on contract basis is a child labour.

The Factories Act of 1948 defining that “a person below the age of 14 years is to be regarded as a child. Therefore, any physical labour by a child below 14 years either under compulsion or voluntarily in an

² [http:// www.childlabour.in/child-labour-in-india.htm](http://www.childlabour.in/child-labour-in-india.htm)

³ [http:// www.ilo.org](http://www.ilo.org)

⁴ <http://www.articlesbase.com/diseases-and-conditions-articles/child-labour-2124157.html>

organised or unorganised sector qualifies to be called as "Child Labour".

Thus, child labour is conventionally defined as a working child between age of 5-14 who are doing labour or engaged in economic activity either paid or unpaid. The definition of child as given under Child Labour (Protection and Regulation) Act, 1986 defines child means a person who has not completed his fourteen years of age so by this definition the question of child labour is solved.⁵

B. Magnitude of Child Labour in India

As per census 2001, Uttar Pradesh (15.22%) recorded the highest share of child labour in the country, followed by Andhra Pradesh (10.76%), Rajasthan (9.97%), Bihar (8.82%), Madhya Pradesh (8.41%), and West Bengal (6.77%). The census data reveals that, the trend on the magnitude of child labour is not uniform across the country. On one hand, there is considerable increase in the absolute number of child labour between 1991 and 2001 in the states of Uttar Pradesh, Rajasthan, Jharkhand, Chattisgarh, Bihar, West Bengal, Haryana, Uttaranchal, Himachal Pradesh, Punjab, Nagaland, Assam, Meghalaya, and Delhi. On the other hand, Maharashtra, Andhra Pradesh, Madhya Pradesh, Tamil Nadu, Karnataka, Orissa, Gujarat and Kerala have shown significant decline in the number of child labour

C. International Prospective

The problem of child labour is in existence in the major part of the world, though it varies in forms and degrees. Efforts have been made by the International community from time to time to regulate and prevent the problem of child labour. The Universal Declaration of Human Rights (UDHR) recognizes the inherent dignity of and the equal and inalienable rights of humans as the foundation of freedom, justice and peace in the World.⁶ These include the International Covenant on Civil and Political Rights (ICCPR, 1966), the

⁵ Child Labour: Problems & Perspectives, Lawz, September, 2011, pp. 16-18.

⁶ Preamble of Universal Declaration of Human Rights (1948).

International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966), the Convention on the Rights of the Child (CRC, 1989), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT, 1984), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW, 1979) and several other instruments dealing with other aspects of human rights. The Convention on the Rights of the Child is in fact the most widely ratified covenant in international human rights.⁷

Article 25 of the Universal Declaration of Human Rights provides that motherhood and childhood are entitled to special care and assistance and children whether born in or out of wedlock shall enjoy the same social protection.⁸ Article 26 also provides that every child has the right to education and the same provisions have been incorporated in the International Covenant on Economic, Social and Cultural rights imposing an obligation on the states parties to recognise the right of everyone to education.⁹

UNO adopted the Convention on the Rights of the Child, 1989 for the purpose of protecting the rights of child and India also ratified this Convention. The Convention draws attention to four sets of civil, political, economical and cultural rights of every child. Some of them are right to survival, right to protection, right to development and right to participation.

Other important international bodies working in this area is International Labour Organisation (ILO) and UNICEF. The ILO has been playing an effective role in the process of gradual elimination of child labour and to protect the children from industrial exploitation throughout the world. UNICEF is also playing an important role to eliminate child labour and its goal is to promote compulsory primary education as a fundamental strategy for elimination and prevention of child labour by enrolling and retaining children in schools.

⁷ www.un.com/Conventions/Documents/UNCRC.html (Last visited 19th January, 2015)

⁸ Article 25 of Universal Declaration of Human Rights (1948).

⁹ *Ibid.*

D. Constitutional and Legislative Perspective to Prevent Child Labour

Preamble of the Indian Constitution declares that India is a welfare state which aims to secure social, economic and political justice and equality of status and of opportunity. It means no one can deprive children from all opportunities to develop their socio, economic and political status. At national level several efforts are being made to regulate and abolish child labour in India.

1. **Constitution of India:** The framers of the Constitution had applied their vision and wisdom by providing protection and provisions for developments of children. The view was that a nation cannot attain progress and development unless; the children of the country are nurtured and educated. Thus, the Preamble of the Constitution clearly declares that India is a welfare state which aims to secure social, economic and political justice and equality of status and of opportunity. It means no one can deprive children from all opportunities to develop their socio, economic and political status. To promote the welfare of children and to eradicate the child labour several provisions relating to children have been incorporated in Fundamental Rights and Directive Principles of State Policy.
 - a) Article 14: The State shall not deny to any person equality before law and the equal protection of laws with in the territory of India.
 - b) Article 15: The State shall not discriminate against any citizen ... (3) State shall make special provisions for women and children.
 - c) Article 21: No person shall be deprived of his life or personal liberty except according to procedure established by law.

- d) Article 21(A): Free and compulsory education to all children of the age of 6 to 14. The State shall provide free and compulsory education to all children of the age of 6 to 14 years in such manner as the State, by law, may determine.
- e) Article 23: Traffic in human beings and *begar* and other forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with the law.
- f) Article 24: Prohibit the employment of children. No child below the age of 14 years shall be employed to work in any factory or mine or engaged in any other hazardous employment.
- g) Article 39: That the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength.
- h) Article 39(e) (f) State shall safeguard health of children and offered opportunities and education of children.
- i) Article 45: The State shall endeavour to provide early childhood care and education for all children until they complete the age of six years.
- j) Article 243G read with Schedule 11: Provide for institutionalization of child care by seeking to entrust programmes of women and child development to *Panchayat* (Item 25 of Schedule 11), apart from education (Item 17), family welfare (Item 25), health and sanitation (Item 23) and other Items with a bearing on the welfare of children.

2. **The Minimum Wages Act, 1948¹⁰**: It provides for fixation of minimum time rate of wages by state government. It also includes the fixation of minimum price rate of wages, guaranteed time rates for wages for different occupations and localities or class of work and adult, adolescence, children and apprentices (Section 3).
3. **The Factories Act, 1948¹¹**: The Factories Act expressly prohibited child labour under its significant provision. This is nothing but a protection given to the child workers against exploitation. The Act prohibits the employment under 14 years of age in factories (Section 67). A child who has completed the age of 14 years is not permitted to work in a factory for more than 4 hours in any day [Section 71(1) (a)]. They should not work at night i.e. twelve consecutive hours including the period from 10P.M. to 6 A.M. [Section 71(1)(b)]. The period of work is to be limited to two shifts which should not overlap and spread over more than five hours [section 72(2)]. They should not be employed in two separate factories on the same day [Section 71(4)].
4. **The Plantation Labour Act, 1951¹²**: The Act prohibits the employment of children below the age of 12 years. However, employment of child above 12 years is permitted only on a fitness certificate from an appointed surgeon.
5. **The Mines Act, 1952¹³**: It states that no child shall be employed in any mines nor shall any child be allowed to be present in any part of mine, which is below ground, or in any open cast working in which any mining operations being carried on. The Act prohibits employment of persons (below 18 years) in any mine or part thereof (Section 40) and also their presence in any part of the mine above ground

¹⁰ Act No. 11 of 1948 (15th March, 1948).

¹¹ Act No. 63 of 1948 (23rd September, 1948).

¹² Act No. 69 of 1951 (2nd November, 1951) as amended in 1953, 1960, 1961, 1981 & 1986.

¹³ Act No. 35 of 1952 (15th March, 1952).

where any operation connected with or incidental to any mining operation is being carried out (Section 45). The Act prescribes punishment of fine up to Rs. 500 in cash of employment of persons below 18 years (Section 68). For contravention of any other provision of the Act, there is provision of imprisonment up to three months or fine up to Rs. 1000 (Section 73).

6. **The Merchant Shipping Act, 1958¹⁴:** The Act prohibits employment of children below the age of 14 in a ship, however permitted in case of a training ship, home ship or a ship where other family members work. It also prohibits employment of young person below the age of 18 as trimmers and stokers except under certain specific conditions.
7. **The Children Act, 1960¹⁵:** Another important legislation-prohibits employment of children for begging and exploitation of child employee.
8. **The Apprentices Act, 1961¹⁶:** It provides that no person shall be qualified for being engaged as an apprentice to undergo apprenticeship training in any designated trade unless he has completed 14 years of age and satisfied such standards of education and physical fitness as may be prescribed.
9. **The Motor Transport Workers Act, 1961¹⁷:** It covers every motor transport undertaking employing 5 or more persons. The Act prohibits employment of persons less than 14 years of age in any capacity in the motor transport undertaking (Section 21).

¹⁴ Act No. 44 of 1958 (30th October, 1958).

¹⁵ Act No. 68 of 1960 (26th December, 1960).

¹⁶ Act No. 52 of 1961 (1st March, 1961).

¹⁷ Act No. 27 of 1961 (20th May, 1961).

10. **The Beedi and Cigar Workers (Conditions of Employment) Act, 1966¹⁸:** It covers all industrial premises wherein any manufacturing process connected with making of beedi or cigar or both is being, or is ordinarily carried on with or without the aid of power. The Act prohibits the employment of children below 14 years in any such premises (Section 24). The employment of young person between 14 to 18 years is prohibited between 7 P.M. to 6 A.M.
11. **The Child Labour (Prohibition & Regulation) Act, 1986¹⁹:** The main object of the said Act is to prohibit the engagement of children in certain employments and regulation of condition of work of children in certain other employments. The Act aims to prohibit the entry of children into hazardous occupations and to regulate the services of children in non-hazardous occupations. In particular it is aimed at:
 - (i) the banning of the employment of children, i.e., those who have not completed 14 years of age, in 18 specified occupations and 65 processes;
 - (ii) laying down a procedure to make additions to the schedule of banned occupations or processes;
 - (iii) regulating the working conditions of children in occupations where they are not prohibited from working;
 - (iv) laying down penalties for employment of children in violation of the provisions of this Act and other Acts which forbid the employment of children;
 - (v) bringing uniformity in the definition of the child in related laws.

¹⁸ Act No. 32 of 1966 (30th November, 1966).

¹⁹ Act No. 61 of 1986 (23rd December, 1986). The Act has been further amended by The Child Labour (Prohibition and Regulation) Amendment Act, 2006 to include domestic workers in prohibited categories.

12. **The Juvenile Justice (Care and Protection) of Children Act, 2000**²⁰: The provisions of the Act made it a crime, punishable with a prison term, for anyone to procure or employ a child in any hazardous employment or in bondage.
13. **The Right of Children to Free and Compulsory Education Act, 2009**²¹: The law mandates free and compulsory education to all children aged 6 to 14 years. This legislation also mandated that 25 percent of seats in every private school must be allocated for children from disadvantaged groups and physically challenged children.

E. Judicial Approach in Regulating the Problem of Child Labour

Judiciary in India plays very active role in protecting and safeguarding the rights and freedom of the mass. The concept of locus-standi had been diluted by allowing public interest litigation through various judicial pronouncements. In this regard, judiciary is also playing an important role to protect the children from economic exploitation, to safeguard their basic rights and to prevent child labour by liberally interpreting the constitutional and legislative provisions relating to children.

In 1982 the honourable Supreme Court in *PUDR v. Union of India*²² popularly known as *Asiad Workers' Case* ruled that construction work was not allowed under the Employment of Children Act, 1938. In this case it was brought to the notice of the Supreme Court that children below 14 years of age were employed in the construction work. It was held that construction work is clearly a hazardous occupation and it is absolutely essential that the employment of the children under the age of 14 years must be prohibited in every type of construction work. The respondents contended that Article 24 of the Constitution of India and The Employment of Children Act, 1938

²⁰ Act No. 56 of 2000 (30th December, 2000).

²¹ Act No. 35 of 2009 (27th August, 2009). However the Act came into force on 1st April, 2010.

²² *People's Union for Democratic Rights v. Union of India*, AIR 1982 SC 1473.

was not applicable to the construction work, as construction industry is not a process specified in the schedule. The apex court rejected this contention and held that the construction work is a hazardous employment and, therefore, under Article 24 no child below the age of 14 years can be employed in the construction work even if construction industry is not specified in the Schedule to Employment of Children Act, 1938.

The judgment highlights the lacunae of the law and the need to reform in order to be comprehensive. In accordance with the judgment, the construction work has been added item No.7 as prohibited occupation in Part A of the Schedule to the Child Labour Act of 1986.

The issue of child labour came again before the Supreme Court in *Salal Hydro Project v. State of Jammu & Kashmir*²³, where the court has reiterated its earlier view²⁴ that construction work is hazardous employment and children below 14 years cannot be employed in this work. The Supreme Court also suggested that whenever the Central Government undertakes a construction projects which is likely to last for considerable time, the Central Govt. should provide facilities for schooling to the children of construction workers who are living at or near the project site. However, the court was constrained to remark that the problem of child labour is a difficult problem and it is purely an account of economic reasons that parents often want their children to be employed in order to be able to make both end meets. The court further said that this is an economic problem and it cannot be solved merely by legislation. So long as there is poverty and destitution in the country, it will be difficult to eradicate child labour.²⁵

With regard to child labour in Beedi Industry, in *Rajangam, Secretary Dist. Beedi Workers Union v. State of Tamil Nadu and Others*,²⁶ with K.C.

²³ AIR 1984 SC 177.

²⁴ AIR 1982 SC 1473.

²⁵ AIR 1984 SC 177 at 191.

²⁶ AIR1993 Lab.IC 4. AIR 1993 SC 404.

*Chandra Segaram v. State of Tamil Nadu and Others*²⁷, various allegations were made including the child labour and specifically the non-implementation of the Beedi and Cigar Workers' (Condition of Employment) Act, 1966. To protect child labour, the apex court suggested that "tobacco manufacturing has indeed health hazards, child labour in this trade should, therefore, be prohibited as far as possible and employment of child labour should be stopped either immediately or in a phased manner to be decided by the State Government..... the provisions of the Child Labour Act, 1986 should be strictly implemented."²⁸

Further, the Supreme Court in *M.C. Mehta v. State of Tamil Nadu and Others*²⁹ popularly known as 'Child Labour Abolition case' has held that the children below the age of 14 years cannot be employed in any hazardous industry, mines or other works. In this case M.C. Mehta, an environmentalist, lawyer raised the issue of employment of thousands of children below 14 years of age in match factories and fireworks industry in Sivakasi. The Supreme Court directed the state of Tamil Nadu to create Child Labour Rehabilitation Welfare Fund to which the registered match factories have to contribute so that the consolidated money would be available for implementing welfare schemes for children.

In *Sheela Barse v. Union of India*³⁰, it was held that child is a national asset, and it is the duty of the state to look after the child with a view to assuring full development of its personality. Judicial institutions have played a significant role not only for resolving disputes but also has always endeavoured to expand and develop the law so as to respond to the hopes and aspirations of the people who are looking to the judiciary to give life and content to law.

With a view to safeguard the interest of bonded child labourer Supreme Court delivered a landmark judgment with important

²⁷ AIR 1993 SC 404.

²⁸ AIR1993 Lab.IC 4.

²⁹ AIR 1991 SC 417.

³⁰ (1993)4 SCC 204.

observation in *Bandhua Mukti Morcha v. Union of India and others*.³¹ The Supreme Court in this case directed the State Government to prepare schemes for the welfare and rehabilitation of children working in the carpet industry. On behalf of the Court, Justice Bhagwati remarked that “it is a problem which needs urgent attention of the Government of India and the State Governments and when the Directive Principles of State Policy have obligated the Central and State Government to take steps and adopt measures for the purpose of ensuring social justice to the have-nots and the handicapped, it is not right on the part of the concerned governments to shut their eyes to the inhuman exploitation to which the bonded labourers are subjected.....” It is, therefore, essential that which ever be the State Government it should, where there is bonded labour, admit the existence of such bonded labour, and make all possible efforts to eradicate it. By doing so, it will not only be performing a humanitarian function, but also discharging a constitutional obligation and strengthening the foundations of participatory democracy in the country.³²

Further, in the case of *Neeraja Choudhary v. State of M.P.*³³ the Court said that ‘it is not enough merely to identify and release bonded labourers, but it is equally, perhaps more important that, after identification and release, they must be rehabilitated, because without rehabilitation, they would be driven by poverty, helplessness and despair into serfdom once again.’³⁴ Not only, that, “the Bonded Labour System (Abolition) Act, 1976 has been enacted pursuant to the Directive Principles of State Policy with a view to ensuring basic human dignity to the bonded labourers and any failure of action on the part of the State Government in implementing the provisions of this legislation would be the clearest violation of Article 21, apart from Article 23 of the Constitution”³⁵ and, therefore, the Apex Court directed the State Government to provide rehabilitative assistance to these freed bonded labourers within one month from the date of

³¹ AIR 1984 SC 802.

³² AIR 1984 SC 802

³³ AIR 1984 SC 1099

³⁴ *Ibid.* See also *P. Shiva Swamy v. State of A.P.* 1988 Lab IC 1680

³⁵ *Ibid.*

giving the decision. Because ‘freedom from bondage without effective rehabilitation after such freedom will indeed be of no consequence and in the absence of proper arrangement for such rehabilitation being made, the entire purpose of the Act, will be frustrated’.³⁶

It was observed by the Court that, “The child of today cannot develop to be a responsible and productive member of tomorrow’s society unless an environment which is conducive to his social and physical health is assured to him. Neglecting children means loss to society as a whole. If children are deprived of their childhood-socially, economically, physically and mentally- the nation gets deprived of the potential human resources for social progress, economic empowerment and peace and order, social stability and good citizenry. The founding fathers of the Constitution, therefore, have emphasized the importance of the role of the child and the needs for its best development and projected the rights in the Directive Principles including the children as beneficiaries. Their deprivation has a deleterious effect on the efficacy of democracy and the rule of law”.³⁷

The Supreme Court in *Rosy Jacob v. Jacob A. Chakramakkal*³⁸, observed that “The children are not mere chattels; nor are they mere play things for their parents. Absolute rights of parents over the destinies and the lives of their children have in the modern changed social conditions, yielded to the considerations of their welfare as human beings so that they may grow up in a normal balanced manner to be useful members of the society...”

Although the judiciary in India made laudable directions and suggestions in many instances to protect the poor children, unfortunately these directions and suggestions are not followed by the Government machinery.

³⁶ *Ibid.*

³⁷ *Bandhua Mukti Morcha v. Union of India* (1997) 10 SCC 549.

³⁸ (1973) 1 SCC 840 at Para 15; AIR 1973 SC 2090.

Conclusion and Suggestions

The problem of Child Labour is one of the international concerns. The Govt. has taken various steps to eradicate this social evil so far. Over the years the Government of India has multiplied its efforts to address the needs and rights of exploited children. However, the issue remains grave and demanding more rigorous measures in this regard. So, in order to regulate & eliminate the problem of child labour there is a need for more intensive initiatives to tackle poverty and promote education opportunities to all children. As per NSSO survey 2009-10, the working children are estimated at 49.84 lakh, which shows decline trend and according to the NSSO survey 2009-10 compared to 2004-05 there is tremendous decline of magnitude of child labour from 90, 75,000 to 49, 83,871.

If we continued to implement the National Policy on Child Labour as per the 12th Five Year plan (2012-17) then there is possibility that the child labour will be eradicated completely and no child will be forced to work.

Suggestions to improve the situation:

1. Strict implementation of Child Labour legislations as well as practical and healthy alternatives to replace this evil can go a long way to solve the problem of Child Labour.
2. Ensure compulsory primary education for all children by effectively implementing Article 21A of the Constitution and the provisions of Right to Education Act, 2009.
3. Poverty being the root cause for the existence of the problem of child labour, thus poverty eradicated programmes, has to be adopted by the Government and effective steps must be taken for proper implementation of these programmes.
4. Organize more literacy/awareness programmes to prevent children from employment.

5. Control on Population growth to eliminate poverty, which is basic cause of Child Labour issues.
6. Mandatory provisions should be made for implementing equal pay without discrimination as to Age, Status, Religion etc.
7. Need to provide training and education to the child workers during their free time.

THE CITIZENSHIP (AMENDMENT) ACT, 2019: A JURISPRUDENTIAL EVALUATION

*Dr. Vandana Singh**

*Mehak Rai Sethi***

*Gunjan Arora****

Abstract

This paper is an attempt to investigate the recent Amendment brought into force by the Indian Government i.e., the Citizenship (Amendment) Act, 2019. In light of the nation-wide protests prevailing in India as a reaction to this law, and the threat that this law is posing to the unity of India is something which requires immediate attention. People of a democratic country express their dissent towards unjust laws through protests which may be peaceful or may even be in the nature of armed struggles, in order to exercise their rights as the 'citizens' of the country. The Rule of Law is majorly the core idea which is defended by the people whenever there appears to be a law/act of the government endangering the same. It has two versions when viewed in the scenario of the on-going protests against the Act, i.e., the positivist and the sociological versions. The authors shall analyze the CAA on the same lines, thereby providing to the readers a Jurisprudential critique of this law.

Keywords: CAA, citizen, rule of law, positivism, sociological school, religion.

1. Introduction

In a mega-diverse country like India, religion is like opium to the people. Most of them view all acts through the clouded lens of their religious beliefs. The moment a government act seems to cross the demarcated lines set for protected religious practices and beliefs, it sets room for hullabaloo, which spreads throughout the country like

* Assistant Professor, University School of Law and Legal Studies (USLLS), Guru Gobind Singh Indraprastha University, Delhi.

** Ph.D. Research Scholar, USLLS, Guru Gobind Singh Indraprastha University, Delhi.

*** Advocate, The Legist Auxiliary, Delhi.

wildfire. The familiarity of the Constitution-drafters with the significance attached to religion in the country led them to insert a specific provision in the final draft of the Constitution of India, for the protection & recognition of the fundamental right to protect, practice and propagate any religion of one's choice.¹ This fundamental right is also supplemented by certain other fundamental freedoms, which find place in the Constitution itself, *namely*, "Freedom to manage religious affairs"², "Freedom as to payment of taxes for promotion of any particular religion"³, "Freedom as to attendance at religious instruction or religious worship in certain educational institutions"⁴.

For millennia, India's population has been defined by its religious pluralism. Although there is no official state religion in India, religion plays an important part in daily life in the form of rituals, yajnas, pilgrimages, festivals and various other religious traditions. While Hinduism has long been the most dominant religion, Buddhism, Sikhism, Jainism, Christianity and Islam have also flourished.⁵ The balance seemed to have become a little lopsided and disrupted due to the recent introduction of a controversial law by the Indian Parliament. This Act came to be known as The Citizenship (Amendment) Act, 2019 (CAA).

Through this paper, an insight into the jurisprudential side of the new law can be gained by the readers by an analysis from the lens of philosophical views of some eminent jurists; but first, it is pertinent to understand the law which became the main topic, which propelled the whole nerve-wracking situation in the country.

¹ The Constitution of India, 1950, art. 25.

² Id., art. 26.

³ Id., art. 27.

⁴ Id., art. 28.

⁵ O.P. Sharma and Carl Haub, "Change comes slowly for Religious Diversity in India", *PRB*, March 11, 2009, *available at* <https://www.prb.org/resources/change-comes-slowly-for-religious-diversity-in-india/> (last visited on Nov. 24, 2021).

2. The Citizenship (Amendment) Act, 2019

The law became the subject of heated debate, with protestors demanding the retraction of the same by the government. The major bone of contention for these protestors was that the said Act rejected ‘mutual interest’ as it in effect had the potential to violate the ‘fraternal bonds between communities’, and was, therefore, ‘arbitrary’. The zeal of the protestors across nation led to the question of determination of the validity of the amendment.

At its inception, when the Constitution was adopted, the law with regard to the citizenship was debated extensively by the Constituent Committee. As a result of these elaborate discussions, Article 5 was incorporated in the Constitution of India, that listed out the qualifications of citizenship. This was followed by the introduction of a comprehensive Act⁶ in the year 1955, which came to enumerate the laws to govern the issue of citizenship in India, in accordance with the power given to the Parliament to make law under Article 11 of the Constitution of India. The same Act was amended in 2019 and the bill was passed in both houses in a short span of 41 days. The amended Act spelt out that the Hindus, Parsis, Buddhists, Sikhs, Christians and Jains who were facing religious persecutions in Afghanistan, Bangladesh and Pakistan shall be entitled to seek Indian citizenship. The applicability of the Act is restricted to all the States except the States listed in the Sixth Schedule of the Indian Constitution. These exceptions include the tribal areas of Tripura, Assam, Mizoram and Meghalaya. Population of India is 1.3 billion, with a growth rate of 1.08%.⁷ The population varies, depending on various factors which include, though are not limited to Birth, Death, Migration (both in and out of India) and Rate of intake of Refugees. A person may acquire citizenship in India, by various modes, which include: Citizenship by Birth, Citizenship by Descent, Citizenship by Registration, Citizenship by Naturalization, and Citizenship by Incorporation of Territory. Earlier, the requirement to acquire

⁶ The Citizenship Act, 1955.

⁷ Population Statistics, available at m.statisticstime.com (last visited on Nov. 15, 2021).

citizenship naturally in India was that a person should stay in India for at least eleven years.⁸ The new Act of 2019 made it mandatory for a person to acquire citizenship naturally by staying for five years in India.

A series of protests sprung up in the country due to the instillation of fear in the minds of people that the linguistic and cultural demography of the nation would be changed drastically. Another faction of people viewed this Amendment to the Citizenship Act as unconstitutional, for being violative of the fundamental right to equality⁹, by not including Muslims in the realm of communities who can seek citizenship via the amended Act. It was held to be a politically guided move or a political gesture of the current government. Reasons though might be different for the protestors demanding changes in the amendment but the authors enlighten the jurisprudence involved and view it as a tussle between various philosophical theories.

In the light of above, the present paper seeks to inquire into the various philosophical views, which represent clash between the ideological views of the government/policy makers on one side, which reflect the positivist approach and the public (citizens) on the other side being guided by a sociological approach. Furthermore, it is an attempt to critically analyse the impact of the Act, while evaluating the suitable approach to this sensitive and delicate issue where the two ideologies seem to have locked horns.

3. CAA: The Positivist Perspective

Legal positivism stems from the idea that norms made by the legislator or considered as common law or case law are similar to positive norms. The idea is based on social construction i.e., positivism asserts that the existence and content of law depends on “social facts” and not its “merits”.

⁸ The Citizenship Act, 1955.

⁹ The Constitution of India, 1950, Art.14.

Austin, a prominent positivist believed that the authority is necessary and providing obedience to the authority is the duty of all men. For Austin sovereign is:

*“When a determinate human superior, not in the habit of obedience from a like superior, receives obedience from the bulk of a given society. that determinate superior is sovereign in that society, and the society (including the superior) is a society political and independent”.*¹⁰

Positivists believed that the essential characteristic of law is its ‘imperative character’. Law is conceived as the command of the sovereign. Austin merely concerned himself with the ‘general commands’, obliging a person(s) to acts or forbearances of a class, merited the attribute of law. In his opinion, every positive law is set by a given sovereign to a person(s) in a State of subjection to its author.¹¹

Even Austin subscribed to the view that the law may at times be “unjust”, if viewed from the point of view of certain standards extraneous to it, but he did not believe that there shall be a deviation from the standards which the positive law itself lays down. For him, the law which is written or is already in existence is the law and if the same is disobeyed and disregarded, then the act of such non-compliance shall not be legally justified.¹²

Hobbes, a Social contract theorist, believed that in the state of nature, there were no enforceable standards of good and wrong. People seized whatever they could for themselves, and their existence was “solitary, impoverished, brutal, brutish, and brief”.¹³ The state of nature was, therefore, a state of conflict, which could only be stopped if individuals agreed (via a social compact) to surrender their liberty to a sovereign on the condition that their lives would be protected by

¹⁰ John Langshaw and Austin, *Lectures on Jurisprudence* 226 (Kessinger Publishers, India, edn. 4, 1879).

¹¹ Edgar Bodenheimer, *Jurisprudence: The Philosophy and Method of Law* (Universal Publishing, 5th Indian Repr., 2006).

¹² *Ibid.*

¹³ Thomas Hobbes, *Leviathan* (April, 1651, England).

sovereign authority. supports the idea of an absolute sovereign, without giving any value to individuals. According to him, the contract does not apply to a State, rather it is only the individuals who render obedience to the State as a ‘gift’, against which the State is bound to provide them nothing. The sovereign makes no promises and is not himself bound by the law he makes.¹⁴

Locke on the other hand, believed that in the state of nature there is a mutual transferring of rights between the State and citizens, where the latter give their rights of ‘*Life, Liberty and Property*’ and the former in return promises to provide them protection. He thought that only an absolute sovereign can establish and give ensurance of peace in civil society. This view is corollary to sovereign enacting the Citizenship (Amendment) Act, 2019, wherein the legislature seems to have assumed to itself the sovereign status, without taking into account the will of the people/individuals who are/might be affected by the same.

Here, it is pertinent to quote what, H.L.A. Hart suggested while presenting a diluted version of Austin’s idea of Sovereignty. Viewing it from the lens of situation demanding, ‘*Disobedience is the reaction of the citizens to unjust laws*’.

*“All laws restricting liberty are for that reason evil but before the step from recognition of the evil to disobedience could be rationally taken, a careful calculation and comparison of the consequences of obedience and disobedience is necessary”.*¹⁵

In order to achieve results, laws must *persuade* or *compel* people to behave in a certain fashion. Compulsion is more important element

¹⁴ *Encyclopedia Britannica*, “Thomas Hobbes” (Apr. 1, 2021), available at <https://www.britannica.com/biography/Thomas-Hobbes> (last visited on Nov. 22, 2021).

¹⁵ H.L.A. Hart, *Essays on Bentham* Oxford University Press ISBN 978-0-19-825468-3 (1982), reprinted in 2011.

amongst the two.¹⁶ Use of force for enforcement of laws must always be exercised as a last resort not as a matter of routine.¹⁷

Authoritarian rule has no place in a democratic setup. And this idea formed the root of the problem in India with the sudden imposition of law like CAA, 2019 which rendered a great chunk of population stateless in just a matter of few days. Introduction of this allegedly arbitrary law was a gradual process which appeared to be not guided by a sound or logical reason. Ideally, the aim should be to produce laws, which, *on balance*, will be to everyone's advantage. But even if a society approximates to this ideal, many laws will disadvantage some, and if those disadvantaged by them decide to defy them, or to resist them, or even to refuse their cooperation, unless and until compelled by force, a society can quickly descend into chaos. It is difficult to maintain the habit of obedience to the law in times of great change as then people must constantly adapt their behaviour to the new requirements of the law and this is hard to reconcile with the idea of habitual or traditional observance of the law.¹⁸

For Bentham: "*Law is an assemblage of signs, declarative of volition, conceived or adopted by the sovereign the state concerning the conduct to be observed in a certain case by a certain person or a class of persons, who in the case in question are or are supposed to be subject to his power*".¹⁹

He emphasised greatly upon the idea of a sovereign guiding his subjects by laying down the rules of conduct expect out of them. But, for him, unlike Austin, a sovereign need not be all-powerful, absolute and undivided. In one of his famous works, Bentham stated that the "people may be disposed to obey the command of one man against the world in relation to on sort of act, and those of another man in relation to another sort of act, else what are we to think of the

¹⁶ P. S. Atiyah, *Law & Modern Society*, 81 (Oxford University Press Paper Back, 2nd ed., 1995).

¹⁷ John Rawls, *The Law of Peoples* (Universal Law Publishing Co. Pvt. Ltd. (1921) rep. edn., 2008).

¹⁸ *Supra* note 16 at 84.

¹⁹ Jeremy Bentham, *An Introduction to the Morals and Legislation* (Oxford: Clarendon Press, 1823 edn., 1907).

constitutional laws of the Germanic body”²⁰. Such instances in his work suggest his stand towards opening room for possibilities of divided and limited sovereignty in the society.

Whereas Blackstone was of the view:

“In every political society, should be a supreme, irresistible, absolute, uncontrolled authority, in which the jura summi imperii, rights of sovereignty reside”.²¹

His view somewhat sided with the Austinian idea of sovereignty, where stress was laid more upon the concept of ‘Absolute Sovereignty’. For him, Sovereignty equals Superiority, therefore, a sovereign should be unlimited.²² To quote a few lines from Blackstone’s famous work: *“Law, in its most general and its comprehensive sense signifies a rule of action.....which is prescribed by some superior and which the inferior is bound to obey..... At the core of his conception of law lies the compulsion people obey the law not because they consent to it but because they are compelled to do so by a superior power..... Superior power cannot be subject to external constraints”*.

Howard L. Lubert, in his book²³, while analysing William Blackstone’s theory stated that *“one may object that Blackstone assumes the natural law would impose a moral constraint upon the government. However, Blackstone acknowledges that government might legislate in a manner contrary to natural law and even laws contrary to natural justice are binding on the subjects”*.

²⁰ H.L.A. Hart, “Bentham on Sovereignty”, 2 *Irish Jurist* 333 (1966), available at https://www.jstor.org/stable/44026042?read-now=1&refreqid=excelsior%3A8a8fc3eb0eb473d6d4503b646b64c273&seq=7#page_scan_tab_contents (last visited on Nov. 22, 2021).

²¹ William Blackstone, *Commentaries on the Laws of England*, (Clarendon Press, 1st edn., 1965), available at https://books.google.co.in/books/about/Commentaries_on_the_Laws_of_England.html?id=faZFAAAAcAAJ&printsec=frontcover&source=kp_read_button&redir_esc=y#v=onepage&q&f=false (last visited on Nov. 21, 2021).

²² Howard L. Lubert, *The Review of Politics* (Cambridge University Press, 72, 2010).

²³ *Supra* note 22 at 275.

It is evident that such an approach has not been entirely welcomed by the people of India, who opposed the new Amendment (CAA) by contesting it to be somewhat similar to the above-stated Blackstonian view. For the people, it seems that the government has incorporated and followed an absolutist approach, and had not been guided by any moral or natural law standards. According to them, the government has attempted to simply impose the letter of law upon the citizens, without being sensitive towards their beliefs.

Even from a jurisprudential perspective, Jeremy Bentham was not completely in line and support of the Blackstonian view, which is evident from the fact that when he encountered this insistence put forth by Blackstone in his *Fragment on Government*, he outrightly denied this assertion.²⁴ In his work, Bentham stressed that the so-called ‘supreme governor’s authority’ may be limited by ‘express convention’. He also pointed out that even though sovereignty is a necessary defining and constitutive feature of the political society, the same can be limited and divided unlike Austin’s idea of an ‘undivided determinate human superior’.

Different legal positivists have different views as to the extent to which the power shall vest in their own unique versions of ‘sovereign’. Contradictions and trends of variations in these different versions paint a picture of common idea that is absolutely applicable in the modern era, which is arbitrariness is antithetic to rule of law.

“Arbitrary power is most easily established on the ruins of liberty, abused to licentiousness”.

-George Washington, 1st President of the
United States of America

Guided by the above views, one can deduce that there has been shift from primitive to modern society, where the definition or interpretation of sovereign narrowed down from that of an ‘absolute sovereign’ to that of ‘limited sovereign’. The shift marks a move from

²⁴ J.H. Burns and H.L.A. Hart (eds.), *A Comment on the Commentaries and A Fragment on Government*, p. xxx (Athlone Press, London, 1977).

inclination towards undivided sovereign towards a divided sovereign suitable to modern times.

4. CAA: The Sociological Perspective

The idea of the society is realistically utopian in that it depicts an achievable world that combines political right and justice for all liberal and decent people in a society.²⁵ Law must generally operate with the agreement (or at least without active dissent) of the people of the nation, if it is to work effectively, and that its overall compliance by the power and coercion of organized force, while possible in the last resort, must largely remain a matter of last resort.²⁶

Prof. Patrick Atiyah philosophised: “In free societies, most of the law is observed most of the time, by most of the citizens without the need of a constant threat of immediate force”.²⁷

Rousseau believed that the society is a complex web of interlinking relations existing between the State and citizens; citizens and citizens. This link can function smoothly only if a balance is maintained in the system, with the State working to protect the citizens, and citizens in turn pledging to abide by and obey the laws so passed by the State. His concept of ‘General Will’ is completely in contrast to the Hobbesian view, where the latter did not give much importance to the ‘Will’ of the people and merely stressed upon the will of the sovereign. This ‘General will’ factor introduces a stand given to the people, who are given the discretion to choose the government for themselves and retain/overthrow the government so chosen. This view of Rousseau is a representation of a democratic idea, which is opposed to the close-to-slavery favouring idea of Hobbes. Rousseau argued that in order for general will to be truly ‘general’, it must ‘emanate from all’ and ‘apply to all’.²⁸

²⁵ John Rawls, *The Law of Peoples* (Universal Law Publishing Co. Pvt. Ltd. (1921) rep. edn., 2008).

²⁶ *Supra* note 16 at 84.

²⁷ *Id.*, (1987) at 34.

²⁸ P. J. Steinberger, *Hobbes, Rousseau and the Modern Conception of State*, 595-611 (Journal of Politics, 70, 2008).

Both were social contract theorists, but differ greatly in their ideologies. Hobbes was a 17th century philosopher, as opposed to Rousseau whose timeline accords to 18th century. Both of these contractarians represent the needs of their times, and the way their theories differed with the changing time, marks a changing acceptance towards the idea of ‘democratization of politics’, with more and more discretion vesting upon the people, who possess the power to elect the government for themselves and consequently also possessing the power to contest against this elected government, if it goes against the interests of public and passes bad/unjust laws.

Leon Duguit, who was a sociological thinker, described law as being fundamentally and solely a part of society. According to him “*Law is a social fact*”. For him, the interdependence of men is a fact, but ‘social solidarity’ is an ideal and further, an organization (government) can only exist if the same furthers the ‘social solidarity’, and the moment this organization ceases to further the same, the people do not have a right, but a ‘Duty’ to Revolt. The first and most obvious implication of Duguit’s thesis is that- State is not indispensable. In addition to this, he also drew focus towards ‘decentralization’, away from ‘centralization’ of authority, in view of increasingly complex structure of modern society.²⁹

The social contract theory talks about a quid pro quo between state and its people but John Rawls theorizes that people can themselves be ‘government’; a government amongst the people themselves and within themselves, who are not guided by an external authority i.e., government in the traditional sense.

The idea of the realistic utopia, as Rawls believes, is essential. Unjust war, oppression, religious persecution, denial of liberty of conscious, poverty and starvation are amongst the greatest hindrances to public freedom and humanity. Political injustice can be annihilated through introduction of ‘just social policies’ applied by ‘just political institutions’.

²⁹ Gokulesh Sharma, *An Introduction to Legal theories*, 173 (Deep & Deep Publications, Delhi, 2008).

A constitutional democratic society does not go to war. As democracy is complete in it and is not usually intervened by unjust and hostile state actions, so whenever there buds any aberration in the smooth democratic functioning, the people act in perplexity and in an impulsive manner.

It is not a set of laws that lay down rights in any way. The rule of law is built in the basic conditions of community life. The most important fact of social life is, therefore, the interdependence of men (this Duguit calls '**social solidarity**'). The social institution's purpose is to protect and further it. *Only those laws can be considered law if they are approved by the people and not the sovereign's will.* The monarch is neither above, nor is bound by the statute. The rule would have to be based on social realities.

In light of the above, the people of India united in their stand towards exhibiting their dissent against the policy of the government, which according to them constituted a 'bad law'. For them, it violated some major fundamental rights of people incorporated under Articles 13, 14, 15, 16 and 21.³⁰ In essence, they brought forth an idea of 'social solidarity' and exercised their duty, which in the words of Duguit is called the 'duty to revolt'.

The spirit of togetherness and the pressure exerted by popular demand has every now and then strengthened the idea of democracy, especially in countries like India. One such other instance is the very recent popular pressure exerted by the Farmers of India upon the government, demanding the latter to take back its three controversial Farm Laws. The government finally in 2021 succumbed to their demands and repealed the said laws. Though, it's been 2 years, but still the same was not really the fate of the CAA, 2019.

³⁰ C.P.J. Team, "Why the CAA+NPR+NRC is a toxic cocktail for everyone: it is not just Muslims who will be affected adversely", *CPJ*, Jan. 27, 2020, available at <https://cjp.org.in/why-the-caanprnrc-is-a-toxic-cocktail-for-everyone/> (last visited on Nov. 22, 2021).

The opinions regarding the validity of CAA are still divided, but the tension seems to have simmered down a bit over the years. The implications of the law are yet to be discerned.

Conclusion

India is a diverse country. This diversity runs throughout the country like a golden thread, binding people belonging to different castes, classes, creed, races, religions, languages and communities, together. There exists a unity in diversity.

The Indian Constitution enshrines and sets it out in the Preamble very clearly that India shall be a 'Secular' and 'Democratic' country, where the people from all castes, creeds, races, religions, sex, shall live with dignity and with the feelings of brotherhood ('Fraternity'). Apparently, CAA came as a law possessing the tendency & capability to endanger these golden words sewn into the democratic framework forming the foundation stones of the Constitution. The provisions of the Act seem to have the tendency of dividing India once again, and to revive and re-open the wounds of the past, of the brutal Partition. The Indian people feared that this law would, in effect, re-divide the divided *Bharat*, all over again.

This Amendment is a reflection of the mixed ideologies of positivist thinkers, opposed by the ideologies of sociological thinkers. The ideology, which guided the popular opinion towards the introduction of the Amendment in our legal system was that of 'social solidarity' only, wherein the people of India, both citizens and non-citizens, came together in cooperation and coordination to fight against the alleged imposition of an arbitrary sovereign's will in a democratic set up. The people highlighted the points in the CAA, which reflect the inclusion of erratic rules. Partition of India in 1947 sent the chills down the spines of all the major political leaders and common people in India, where there was a sharing of mutual feelings amongst all the people; the grief of separation bruised and scarred the minds of all, and by the introduction of this new Amendment, those old wounds have been re-opened. People, who were peacefully sitting in their homes, leading a secured life, were

suddenly exposed to the saddening reality, where they were told to prove their belongingness to the country. People who proudly called themselves the ‘Citizens of India’, are now ‘Aliens’ in their own country.

The nation experienced the serendipity and taste of a free life after Independence, but the introduction of this amendment exposed them to the distasteful sorrow of separation, estranging the people who have spent so much of their lives to contribute to this nation. They feared: What sort of justice would it be if the government is allowed to pass such laws without taking into account the interest of the public?

The law abiders, i.e., the people of the country, tend to be reasonable when, they view one another as equals in the system of social cooperation. They then are ready to offer each other certain fair terms of cooperation and this to be considered as reasonable ‘concept of political justice’. As a matter of fact, when they agree on such terms and are ready to act at the cost of their own interests, other citizens also accept those terms. By doing this they set up the norm of ‘reciprocity’. While acting under this phenomenon of ‘reciprocity’, it is important to ensure that the citizens acting in co-operation with their fellow-citizens and complying with the mutually set terms, shall act voluntarily and not under any societal pressure to do so, or under any domination or manipulation governing their actions.

From a jurisprudential perspective, it can be observed that- Contrary to the view of Austin, i.e., there shall be command and sovereignty concept together governing the society, wherein the command emanates from a political superior and is directed towards the political inferior; Hart suggests that this view of Austin was a workable idea during the times of primitive society, when the people were directionless and needed a guiding body to govern them, protect them and enlighten them. Though, the same is not the case in modern times, where the people are more informed, aware and vigilant about their rights, there is no need to blindly follow the laws even when the same appear to be ‘Arbitrary and

tyrannical'. Government needs to employ a policy and law-making mechanism, working under the framework, which is fair and sensitive to the needs of the society.³¹ In law, it is important to have a combination of 'liberty' and 'a protective perimeter' of obligations.³² Even the passage of bill, from the perspective of a major section of the Indian people, seems to have been made in furtherance of positivistic process, especially by the application of a Utilitarian approach. It, to a limited extent solved the purpose of maximising the happiness, even though it had a tendency to compromise the interests of a numbered few. It is clear that not all will be benefited from the Act. It would not be just, on the part of the government to say that Muslims have been excluded from the ambit of the Act because they have other countries to go to, i.e., Islamic countries, unlike the other communities which only have India as their last hope. On the face of it, this law also seems unjust due to the fact that even in Islamic countries, Muslims are persecuted. Therefore, it is wrong to suggest that only the Non-Muslims are targeted in the Islamic countries. Various grounds on which the Muslims are subjected to persecution in the Muslim countries include- 1) Having a dissenting opinion with respect to political or religious ideology of the government, or 2) Due to explicitly putting forth their individual reasons, 3) Challenging the government in place or the agenda of the political institutions set up in those countries.

Though, whether the Act will have a reformatory change directing the law of the country to become better, or would it actually prove to be a weapon of suppression and would lead the country towards regression, is still an unanswered, unresolved and debatable issue. Its fate would be decided gradually with time, but one thing which should not be forgotten is that anything, which shakes the foundational principles of our Constitution and does not further the idea of '*Rule of law*' as opposed to a '*Rule by law*' should be condemned, otherwise the future of the country would be doomed. Sometime, some laws on their face appear to be regressive, but the

³¹ H.L.A. Hart, *The Concept of Law*, (Clarendon Law Series, 2nd edn., 1961).

³² *Supra* note 17.

true picture fade in only after sufficient passage of time. This, therefore, casts a responsibility upon the future researchers to determine the real implications and possible remedial measures to make the law beneficial for the Indian society.

Special Article

**EVOLVING A RESEARCH DESIGN FOR STUDY ON
DEMOCRATIC PARLIAMENTARY SYSTEM AND
THE QUESTION HOUR: ESSENCE AND
UNDERSTANDING**

*Prof. (Dr.) M. Afzal Wani**

*Dr. Babita Singh***

I. Introduction

Jeremy Bentham, popularly known as father of modern legislation has remarked: “The public good ought to be the object of the legislator. ‘General Utility’ ought to be the foundation of his reasoning. To know the true good of the community is what constitutes the science of legislation: the art consists in finding the means to realise that good.¹ In a democracy, ‘representation’ is one of the fundamental principles characterised by an ‘institution’ that represents its people in all aspects of life establishing the rule of law. Democracy is a popular form of government in which all voting citizens of a nation, with legally enforceable rights and morally substantiated duties, elect their representative from amongst themselves for a fixed tenure, thereby delegating their power to such representative to speak for their cause on their behalf in a representative body, thus, determining public policy and ensuring positive action by the State, and, such State, in turn, ensures that all citizens get equitable opportunity to assert their rights and participate in nation building. When the people of India adopted the ‘Constitution’ on 26th day of November, 1949, establishing India as a sovereign nation and creating a socialist secular democratic republic, the first contribution to the nation was providing for a Parliamentary Democracy ensured through elections. The President, elected by

* Former Member, Law Commission of India.

** Legislative Functionary and Scholar of GGS Indraprastha University, Delhi.

¹ Upendra Baxi, *Bentham’s Theory of Legislation*, 1 (Lexis Nexis Butterworths Wadhwa, Nagpur, 2008).

proportionate representation by means of a single transferable vote system, was the formal head of the nation. Further Article 79 of the Constitution stated, there shall be a Parliament for the Union which shall consist of the President and the two Houses to be known respectively as the Council of States and the House of the People.² Under the scheme of the Constitution, the President appoints the Prime Minister and, on his advice, the other Ministers of the Council of Ministers. The Council of Ministers is collectively responsible to the House of the People.³ The President summons the two Houses of Parliament to meet from time to time. He can prorogue the two Houses and can dissolve the House of the People. Parliament in India usually meets for around six months in a year in three Sessions: The Budget Session that generally starts in February and goes till May, the Monsoon Session beginning July and ending August and the Winter Session that starts in November and goes till December. The interval between two sessions must not exceed six Months.⁴ The first session after the General Elections and the first session of each year begin with an Address by the President.⁵

The Indian Constitution, since its inception, imbibed the idea of a governing system that is both severally and collectively responsible to the populace. Article 75 (3) of our Constitution states, *The Council of Ministers shall be collectively responsible to the House of the People*,⁶ i.e., their responsibility to the *House* is not only individually, but collectively also. The entire Cabinet normally accepts the responsibility for the acts of any of its members, so that the censure of one becomes censure of all. The unanimity of the Cabinet is a must both to protect it from external influence as also to save the Parliament from entertaining any lame excuse of shifting responsibility by individual departments of the government. Parliament expresses its agreement or disagreement on how the executive is orienting itself towards a policy by exercising legislative control over the proposed policy or

² P.M. Bakshi, *The Constitution of India*, 134 (Universal Law Publishing/Lexis Nexis, Gurgaon, 13th Edition, 2015).

³ The Constitution of India, Art.75.

⁴ The Constitution of India, Art.85.

⁵ The Constitution of India, Art.87.

⁶ The Constitution of India, Art.75(3).

legislation. Further, ministerial accountability is the basic precept of parliamentary democracy. Accountability has been seen as operating through the mechanism of ministerial responsibility in the form of collective responsibility thereby censuring the entire government through no-confidence motion or interpellation. Such collective responsibility provided Parliament with the means of holding the government as a 'body' accountable. However, individual ministerial responsibility enables the House to focus on a particular Minister and his/her responsibility without the need to censure the whole government.⁷ For example, in Standing Committee meetings on Demands for Grants (that provide for a detailed analysis of budget requirements of a given Ministry on annual basis), all expenditures of respective Ministries are scrutinised. This also involves the examination of work undertaken and executed by the Ministry and the extent of its successes and failures. These Parliamentary Standing Committees, in their structure, composition and functioning act like a small House. They are researching laboratories of the House functioning as its extended limbs. But within the precinct of the House and under the scope of parliamentary practices and procedures, an important example of direct accountability has been set in the form of Question Hour where each Minister is responsible and answerable for the work done by his/her Ministry. Minister, as the head and chief executive officer of the Ministry is answerable to the Houses of Parliament during the Question Procedure.

Our Constitution provides for an immense scope of legislative jurisdiction of the Parliament. The sovereign will of the people finds its expression in the collective decisions of their elected representatives in Parliament. Nevertheless, Parliament of India is neither sovereign nor supreme.⁸ Its authority and jurisdiction are limited by the other organs that have also been given Powers, further, there is distribution of legislative powers⁹ between the Union and the States as also stated above, the incorporation of a code of justifiable

⁷ Diana Woodhouse, *Ministers and Parliaments: Accountability in Theory and Practice*, 3 (Clarendon Press, Oxford, 1994).

⁸ Delhi Laws Act (1912), AIR 1951, SC 332.

⁹ The Constitution of India, Arts. 245-246 and the Seventh Schedule.

fundamental rights,¹⁰ the general provision for judicial review and an independent judiciary. The Supreme Court can declare a law passed by Parliament null and void, if found violating the fundamental rights, or as contravening other provisions of the Constitution.¹¹ Also, under the ruling of the Supreme Court, there are limits to the constituent power in as much as Parliament cannot alter what have been called the basic features of the Constitution.¹² In the United Kingdom, no person or body could claim to set aside or override the legislation of Parliament. But in India, Parliament functions within a sphere that has been fixed for it by the Constitution. In India, the Constitution is the highest law of the land. In spite of these limitations imposed by the above consideration, Parliament can be called the highest law-making body. The two Houses of Parliament with some exclusive powers and functions work in coordination with each other.

Thus, the constitutional scheme of things is reflected on the working and procedures of our Parliamentary system, which in turn also reverberates the philosophy ingrained in democratic theory and the concept of popular sovereignty. However, this Parliamentary system is not an outcome of overnight experiments, it grew out of a well-established theoretical background and conceptual framework of the principle of Accountability evolved through centuries that lay the foundation of present-day democracy in the true sense.

II. Conceptual Context

The parliamentary form of government is a synonym for ‘popular sovereignty’. The concept of popular sovereignty or rule of the people means that all political power is inherent in the people who are the main driving force in establishing the ‘authority’ of a state. The ‘will’ and ‘consent’ of the people create a legitimate government that acts through their representatives who elect them. In other words, it is the people who are at the centre stage in all government decisions and have the final say.

¹⁰ The Constitution of India, Arts. 12-35 and 226.

¹¹ K.G. Thomas vs. Commissioner of Income-Tax, Madras, AIR 1958 Ker 6.

¹² Kesavanand Bharti vs. State of Kerala, AIR 1973, SC 1461.

The concept of popular sovereignty did not develop in a given period, rather is a product of different stages of development in centuries. Nevertheless, in its modern sense, within the political philosophy regime, it is an idea that has its origin in the Social Contract Theory. The Contractarian School (mid-17th to mid-18th centuries) was primarily represented by Thomas Hobbes (1588–1679), John Locke (1632–1704), and Jean-Jacques Rousseau (1712–1778), author of the social contract theory. This theory was a landmark contribution to political jurisprudence wherein the ideals of “general will” were propounded, which further established the concept of popular sovereignty. Hobbes, Locke and Rousseau, who were the most significant thinkers of this school, were of the opinion that a contract is made by every individual with each other and through such contract they themselves restrict their freedom in order to be protected from the acts of those who also have the same freedom. So it is a contract for mutual benefit. The social contract thinkers invariably say that the concept of popular sovereignty is established with the idea that a legitimate social order is possible only when the freedom and obligations are equally divided amongst each citizen of a political entity.

In America, The American Revolution (1775-83) ushered in an era of change in the concept of popular sovereignty as it was seen and understood in early Europe. The concept of sovereignty no more related to the command and wish of a single authority (the king); rather it established the will of collectivity, comprised of the people. Benjamin Franklin, one of the founding fathers of the United States, a diplomat, scientist and an eminent political theorist had very rightly stated,

*“In free governments, the rulers are the servants and the people their superiors and sovereigns”.*¹³

The theories of Hobbes, Locke and Rousseau tried to justify political authority on self-interest and consent given rationally. They

¹³ Ralph Ketchum (ed.), *The Political Thought of Benjamin Franklin*, 398 (Hackett Publishing, 2003).

compared advantages of civil society with disadvantages of the state of nature and showed as to why organised government is useful and should be accepted by all reasonable people, logically deriving the essential rights and duties of citizens.¹⁴

Enlightened theorists like John Locke influenced many thinkers. One of the notable thinkers Jeremy Bentham, the propounder of Utilitarianism (born in 1748 in Houndsditch, London), was a leading thinker in Anglo-American legal philosophy. His period witnessed key political and socio-economic changes due to industrial revolution, upsurges in America and France and rise of the bourgeois that were reflected in his exposition on the institutions of the period. He focussed on the behavioural and practical aspect of human nature and developed an ethico-moral concept that had its deep roots in the conditions that existed in his times. ‘Individualism’ and ‘Utilitarianism’ are the most important aspects of his Theory of Legislation where he says that it is the ends that justify the means. Bentham gave a scientific premise and equated law and its related subjects to that of medical sciences. He stated, “*what the physician is to the natural body, the legislator is to the political: legislation is the art of medicine exercised upon a grand scale*”. (UC xxxii, 168).¹⁵

Bentham’s book *Introduction to the Principles of Morals and Legislation* underscores the primacy of pain and pleasure in utilitarian theory. He held a hedonistic account that what is fundamentally valuable and what ultimately motivates us is pleasure and pain.¹⁶ Happiness is predominance of pleasure over pain. He says,

“Nature has placed mankind under the governance of two sovereign masters, pain and pleasure. It is for them alone to point out what we ought to do, as well as to determine what we shall do. On the one hand

¹⁴ Social Contract (Political Philosophy) available at: <https://www.britannica.com/topic/social-contract> (last visited on Feb 12, 2016).

¹⁵ Bentham, available at: <https://plato.stanford.edu/entries/bentham/#PhiFou> (last visited on Feb 12, 2017).

¹⁶ Internet Encyclopaedia of Philosophy (IEP): William Sweet, Jeremy Bentham, available at: <https://www.iep.utm.edu/bentham> (last visited on May 10, 2018).

*the standard of right and wrong, on the other the chain of causes and effects, are fastened to their throne..... In other words, a man may pretend to abjure their empire: but in reality, he will remain subject to it all the while. The principle of utility recognises this subjection, and assumes it for the foundation of that system, the object of which is to rear the fabric of felicity by the hands of reason and of law”.*¹⁷

Bentham, opined liberty is “pleasant”; law is “painful” but because the state’s control is limited, there is freedom, thus, by saying that law is necessary to social order, Bentham saw more positive role of law in community well-being.¹⁸

Bentham's moral and political philosophy has its foundation in the ‘Greatest Happiness of the Greatest Number’ Principle. Right and wrong can be judged by this principle. It is a uniquely prudent approach based on democratic principles and popular ‘will’ which seems to have an impact on various Schools of Law and modern democratic theories and is most appropriate for a country like India, precisely because of its large and diverse demography. Secondly, if we speak about welfare, as a matter of fact, any endeavour made in the direction of reforms cannot be claimed to be absolute in terms of achievements but one can strive to achieve hundred percent. The best thing possible is to fulfil the objective to the maximum possible extent, in other words, is to provide *goodness* for as much people as we can. The Indian Parliament, in its fulfilment of democratic functions, balances the twin democratic principles of majoritarianism and constitutionalism. That is, our majoritarian principle is not in conflict with safeguarding the interests of the minority. There is a kind of balancing act not only in terms of the functioning of the Parliament that adopts welfare policies as per popular needs but also in the sense that with each general election, a democratic blending occurs with the marginalised coming to the mainstream and the mainstream going to the margins. Perhaps, Bentham could foresee such impacts of a democratic polity, which is why his approach has a practical utility where a society develops for realising benefit of the maximum people.

¹⁷ Jeremy Bentham, *An Introduction to the Principles of Morals and Legislation*, 1 (Hafner Publishing Co., New York, 1948).

¹⁸ See also *Supra* note 16.

Bentham also talks about how a peoples' representative should perform his/her public duties. His thought about the legislators matches with the expectations of the modern electorate. General utility and public good should be the primary focus and foundation of governance. Being a welfare state, India adopts such ideals in letter and spirit. As for example, welfare policies on subjects like Food Security, Health, Farmers, Environment Protection, Rural Roads, Safe Drinking Water, Electricity, Health Protection, Employment Guarantee, Disaster Management, Girl Education, Protection of Women and Children, etc., have been initiated to provide best life conditions for the citizens. They apply 'generally' as they address common problems faced by the people. This is also sometimes on the basis of the inputs given by the Members of Parliament who travel throughout their constituency and observe the real conditions. It is seen that for Bentham the pleasures and pains are human domains since they can be felt by individuals. Pleasure and pain are those basic premises that provide accountability for an action and also define what is good and beneficial. It is on this basis that Bentham thought a calculus of value could be devised. However, these premises of Bentham find an established position in the Indian democratic set-up.

In the Indian context, the Preamble to the Constitution of India serves as a brief introduction extending the socio-political philosophies of the above and many more eminent thinkers. It was amended by the 42nd Constitutional Amendment Act in 1976, making certain changes and thus determined to constitute India into a Sovereign, Socialist, Secular, Democratic Republic. It secures justice, liberty, equality to all the citizens of India and promotes fraternity among the people. The Preamble clearly reflects in its text that the source of authority of the Constitution lies with the people of India. In this way, the Preamble sets out the purpose and main principles on which our Constitution is based.

This is suggestive of the first democratic principle that power ultimately rests in the hands of the people. It also emphasises that the Constitution is made by and for the people of India and not given to them by any extraneous agency unlike the British system where the

power is given to them by the Parliament. This indicates the concept of popular sovereignty exhibiting peoples' power. The present study deals with a subject which is the culmination of the wider concept of our Constitution establishing that in a democratic polity, all the power emanates from the people and the political system is accountable and responsible to the people who have a right to elect their representatives and represent themselves in the Parliament.

III. Separation of Powers, Parliament and Public Accountability

After we achieved independence, the Constituent Assembly, influenced by its political background, our great cultural heritage, practices and traditions, adopted Parliamentary form of government precisely for the reason that in a pluralistic, multi-ethnic, multi-racial and multi-lingual society like India, such government would be the focal point of amalgamation of ideas and ideals through true representation and would promote participatory decision making. During the initial period of deliberations over the law, it was conceived that the Executive should have some kind of accountability towards the Legislature which was a long practice in Great Britain. However, the Doctrine of Separation of Powers was propounded by Montesquieu, an eminent philosopher, that in the Indian context are the three separate wings of governance, the Legislature, the Judiciary and the Executive. In his famous political treatise, *De l'esprit des lois*, Montesquieu propounded that a government should function under a constitutional system. As also stated by the Supreme Court in *I.R Coelho v. State of Tamil Nadu and Others*¹⁹, it was settled centuries ago that for preservation of liberty and prevention of tyranny, it is absolutely essential to vest separate powers in three different organs. In the Indian system of governance there is an evolved understanding that these three wings of the government will not interfere in the working of one another, and would maintain their supremacy and autonomy in their respective domains. This is on lines with the State's intention of ensuring judiciousness, fairness and reasonableness in administration of justice and welfare of the people.

¹⁹ AIR 2007 SC 861.

The legal and legislative ethos reflected in the Indian Culture and our Constitution establish the fact that 'Democracy' in India is not a new concept, as ancient India witnessed the formation of peoples' councils like the Sabha and Samiti and the rule of benevolent rulers. The Parliament of India is termed as a 'legislature with a tradition' even at the time it was duly constituted. It is much older a proposition than the legislative institutions themselves. It is imbibed in our culture and ingrained in our thought. Parliament can influence social norms and human behaviour. It is an institution that directly shapes power, preferences and privileges of our society. This is precisely for the reason that human societies always evolve, thus our representative institutions too. They transform with the changing needs, ethos and values. Although, much of it has been adopted from the British system but as the time passed by, we made marked changes meeting our needs and requirements. The Parliament of India is the supreme body that makes laws for the State but now in the modern times it has become a primary forum for amalgamation of ideas; legislation is not the sole function of Parliament nor is the Parliament alone responsible for making laws. In the present, it is much more than a legislative body. Parliament today is performing various and varied tasks. It has become multi-faceted and more dynamic as compared to the earlier times. It is both the 'core' as well as the 'apex' of a representative democracy that addresses and discusses issues up to the grass root level and also makes crucial laws in national interest. It ventilates the grievances of the common people through its representative character and attempts to resolve these grievances by reflecting on them through its various in-built mechanisms. It is also instrumental in settling disputes and differences besides all important financial control over the administration. In other words, a nation builds its public life around the institution of Parliament. While emphasising its importance, Parliament is the axis on which the entire political system revolves. With its inherent vitality and ever evolving approach, it is defining the modern Indian society as the most vivacious, progressive and dynamic society with one main objective - 'Unification through effective representation'. It is thus a prime mover in 'social engineering' as propounded by Roscoe Pound and plays a special role in a pluralistic society like ours. With each day that passes, our

Parliament grows as a more matured institution. Parliamentary institution has in fact been the greatest gift of humans to the humankind.

The makers of our Constitution were very foresighted. They preferred parliamentary form of government for one reason - 'accountability towards the people' which is far higher in parliamentary system due to the efficiency with which it can accommodate and represent the plurality and diversity of India. Accountability is the foundational core of Democratic Theory, Governance and Parliamentary Law. The practices and conventions evolved during the development of the institution of Parliament are not only aimed at ensuring natural justice in the procedures but also to uphold the principles of accountability inherent in the democratic theory.

The effectiveness of Parliament as an institution of accountability and oversight could be better appreciated with an understanding of the principles embodied in Parliamentary Law. Accountability is an ethico-politically active concept that finds its presence in all representative democracies of the world. Parliamentary accountability makes an impeccable mark in parliamentary practices and procedures, prominent of which are the Question Procedure, Budgetary Accountability mandated in Article 113 of the Constitution, Legislative procedure, Departmentally Related Standing Committees (DRSCs) of Parliament and their Scrutiny of Demands for Grants, Government Assurance Committee, Financial Committees like the Public Accounts Committee and their routine accounting of Government Departments, Parliamentary control over Delegated Legislation through '*Laying Provisions*', and the various procedures of interpellation etc. Hence, parliamentary accountability encompasses the entire parliamentary law and processes and procedures under this law.

Accountability means answerability. It is the fact of being responsible for what one does and to be able to give a convincing reason for one's actions. One is said to be "*accountable to another if s/he has an obligation to explain his/her conduct and is open to another's scrutiny*". One's

duty to explain conduct involves transparency and readiness to accept subservience to principles or people. Being open to another's scrutiny demands the value of probity, which requires transparency and clarity of intention. In democracies, the representatives of people must concede to the popular will. This is inherent in the very idea of Democracy and the Institutions empowered by the Constitution. The concept of accountability can be better explained through its analyses from three perspectives, which may not be taken as a categorisation but only serve as modes of analysis: these are, Democratic Theory, Constitutionalism, and Routine Accountability in Parliamentary Practice.

Democratic theory inheres the concept of Accountability. In other words, accountability is both normatively and structurally intrinsic to democracy. As a matter of fact, political scientists study the concept of accountability from the perspective of power and how power could be made more ethical. In electoral system, accountability amounts to the voters knowing or making good inference about 'what parties have done in office and reward or punish them conditioned on their action'.²⁰ Thus, ethics in democratic practice is inherently entwined with the concept of accountability and legitimacy.

Constitutionalism is the foundation for the working of democracy. It signifies that there are not only norms creating legislative, executive and judicial powers, but that these norms impose significant limits on those powers.²¹ It envisages checks and balances and putting the powers of the legislature and the executive under some restraints and not making them uncontrolled and arbitrary.²² According to Dicey²³,

²⁰ Susan C. Stokes, "Perverse Accountability: A Formal Model of Machine Politics with Evidence from Argentina", 99, No. 3 *American Political Science Review (APSR)* 315 (2005).

²¹ Wil Waluchow, 'Constitutionalism', *Stanford Encyclopaedia of Philosophy*, available at: <https://plato.stanford.edu/entries/constitutionalism/> (last visited on May 7, 2018).

²² M. P. Jain, *Indian Constitutional Law*, 6 (LexisNexis, New Delhi, 7th Edition, 2014).

²³ A.V. Dicey, *Introduction to the Study of the Law of Constitution*, [Liberty Classics, Indianapolis, (First published 1885)1982].

constitutionalism is a harmonious construction, consistent with democratization based on an amalgamation of three constituent elements: parliamentary sovereignty, rule of law, and parliamentary conventions on executive prerogatives and parliamentary privileges in which the three elements together represent a hierarchy of values, making the will of the *House* and ultimately the people, supreme. Historically, Indian constitutionalism is derived from its British counterpart. In Indian context, as Austin says, the federal principle of government and the parliamentary principle act as the locus of accountability.²⁴ Accountability operates only in the context of Constitutionalism. The institutions established by the Constitution particularly in parliamentary form of government enables the people to hold the Government accountable through their representatives. Constitution limits government's power by 'establishing mechanism of political control through which one institution oversees the working and performance of another'.²⁵ Such a public control is an embodiment of democratic values and accountability.

The quest for 'swaraj' or self-rule envisioned during our freedom struggle and embodied in the aspirations expressed in the historic debates of our Constituent Assembly gave us a responsive and responsible government, accountable to the people in the Parliament. Thus, accountability is envisaged in an un-impeding quest for republicanism and popular sovereignty pronounced in the *Preamble* to the Constitution, establishing autochthony and severing its connect with the Indian enactments of the erstwhile British Parliament. Hence, like many other constitutions, the Indian Constitution is also a people's constitution. At the same time, it is to be noted that this Constitution is part of the public law which is founded on political prudence of those who have to work with it.²⁶ Dr. Ambedkar observed the difference between Parliamentary system and non-

²⁴ See also Granville Austin, *The Indian Constitution: Cornerstone of a Nation*, (Oxford University Press, New Delhi, 1999).

²⁵ Andrew Heywood, *Key Concepts in Politics and International Relations*, 2 (Palgrave, New York, 2015).

²⁶ Loughlin, M., *Foundations of Public Law*, 8-10 (Oxford University Press, New York, 2010).

Parliamentary system of governance at the time of introducing the Draft of the Constitution in the Constituent Assembly. He stated,

“In the Non-Parliamentary system like the USA, the assessment of responsibility of the executive is periodic, while in England, the assessment is both daily and periodic. The daily assessment is done by members of Parliament, through questions, resolutions, no-confidence motions, adjournment motions and debates on Addresses. Periodic assessment is done by the electorate at the time of the election, which may take place every five years or earlier. The daily assessment of responsibility which is not available under the American system is, it is felt far more effective than the periodic assessment and far more necessary in a country like India”.²⁷

Routine Accountability is found in institutional structures like the Parliament and State Legislative Assemblies. It stems out of the democratic values; is inherently present in the constitutional provisions and the constitutional commitment of institutions to progressively deepen democracy in their practices and procedures. The government is always under routine parliamentary checks through Questions in the Parliament especially the Question Procedure held every-day during the Session period, the Standing Committee deliberations, submissions of Action-Taken Reports (ATRs) to Parliament, and other informatory devices. Hence, routine accountability, is positively impactful in effective governance.

IV. Parliament and Government: Constitutional and Routine Accountability

Accountability is a key constant in day-to-day conduct of government establishing efficacy of parliamentary democracy. The peculiarity of parliamentary form of government is that ‘the government is in Parliament... and takes decisions under the fire of criticism from the opposition’.²⁸ Such an accountability based on ‘adversarial system of

²⁷ VII, *Constituent Assembly Debates* (India), 32-33.

²⁸ M.N. Kaul & S.L. Shukdher, *Practice and Procedure of Parliament*, With Particular Reference to Lok Sabha, vi (Metropolitan Book Pvt. Ltd., New Delhi, 1st

polity' is the bedrock of good governance in parliamentary form of Government. Therefore, to say that Parliament has been reduced to mere 'oppositional space rather than a forum for genuine debate'²⁹ is a deviation from any attempt to understand the complexity of the issues and stakes involved in a multi-ethnic, multi-lingual and multi-party polity like ours. Further, in this multi-layered and complex form of governance structure, accountability also needs to be innovative and should match up with the growing intricacies of our polity. India has been a complex experiment in institutionalizing democratic accountability through parliamentary institutions as conceded even by its critics. In general, accountability deficit or accountability gap occurs when either the representative institution itself becomes ineffective e.g., an important Bill not being passed or frequent adjournments of the House for unjustified reasons or due to legitimisation crisis. Accountability, therefore, needs to be understood and explained in various aspects of governance viz., in institutions cognizant with its operation in electoral arena or in concepts like institutional cross accountability.

Democratic accountability in terms of composition of representative institutions signifies a kind of mutual responsibility of the governed and the governor. The complacency of the governed towards the power erodes the responsibility of the governor. But once the governed assume their duties towards the governors, the later have to realise their responsibility. Nevertheless, such an accountability is likely to rupture at a juncture when the 'political cost of opportunism and demagoguery becomes higher than that of accepting responsibility'.³⁰ The cross-accountability between the governed and

edition/1968); (Foreword by Sardar Hukum Singh, Former Speaker, Lok Sabha, Parliament of India).

²⁹ Devesh Kapur and Pratap Bhanu Mehta, "The Indian Parliament as an Institution of Accountability", *Democracy, Governance and Human Rights Programme, Paper Number 23*, iii (United Nations Research Institute of Social Development, Geneva, 2006) available at: <https://casi.sas.upenn.edu/sites/casi.sas.upenn.edu/files/bio/uploads/The%20Indian%20Parliament.pdf> (last visited on June 9, 2018).

³⁰ David Ames (trans & ed.), *Legitimacy and Politics*, (by Curtis Jean-Marc Coicaud), 39 (Cambridge University Press, Cambridge, 2002).

the governor is reflected in the responsibility of the institutions established to check each-other. Therefore, even the cross-institutional accountability is reciprocal responsibility of the governed and the governor. The reciprocity between political institutions and the community is best embodied in the Parliament, as it is a remarkable show of the governed, governing itself and the most important institution, which sets limit to the political sovereignty. When these political and public institutions are well-ordered, the principle of accountability establishes itself at its best through an effective working of the political executive. In fact, accountability being the core of democratic governance, the political executive finds its best way to derive legitimacy and strength by consciously conceding to be responsible. This *mutual faithfulness* is a harmonious construction imbibed in the concept of democratic accountability and is further consolidated in the form of other higher institutions established by the norm.

Executive accountability is prescribed in the Directive Principles of State Policy (DPSP) in Part IV (Article 36 to 51) of the Constitution as obligations of the State. Though not enforceable like the Fundamental Rights, Directive Principles are guidelines for a welfare state. Directive Principles further emphasise and embody the famous Kantian saying that ‘sovereignty is a duty to protect rather than a right to control’. The Indian State since the adoption of its Constitution has been evolving towards realising these highest goals of democracy and republicanism through its institutions.

The Constitution of a country, being the fundamental law of the land, defines the basic contours of the institutions and instrumentalities of the State, balances their powers and responsibilities by not only imposing limitations but also by putting one horizontally accountable³¹ to the other. While beginning with the *Preamble*, it embodies the right to democratic governance, giving priority to

³¹ Guillermo O'Donnell, “Horizontal Accountability in New Democracies”, in Andreas Schedler, Larry Jay Diamond, et. al. (eds.), *The Self-restraining State: Power and Accountability in New Democracies*, 29 (Lynne Rienner, London, 1999) ; Horizontal accountability is a way of describing the operations of checks and balances that various non-majoritarian institutions perform.

Fundamental Rights over any other law in case of inconsistency between the two.³² Our constitutional jurisprudence guarantees that the individual as a basic unit has primacy over and morally superior to the collective. The Fundamental Rights restraining the State and all of its instrumentalities including the Legislature from making laws, which are inconsistent with the basic structure of the Constitution, is but a Constitutional assurance for political accountability. Although it has a historical context of executive extending its life and amending the Constitution to the extent of changing its very soul, individual rights, popular sovereignty and responsible government have been at the very core of these basic structure judgements. Going ahead of its British and US counterparts, the Indian Constitutional jurisprudence evolved the mechanism of basic structure on the law-making power of the Parliament itself.

As free discussion and open criticism are at the very core of democratic accountability, there must be definite and unambiguous procedure provided by law for the functioning of legislatures with authority to establish finality of decisions in their procedures. Article 105(1)³³ of the Constitution lays that there shall be freedom of speech in Parliament which under 105 (2) includes anything said or any vote given by a member in Parliament or any Committee of the Parliament, and also a publication by the Parliament or under the authority of either of the two Houses of Parliament. Although, under Art. 122(1)³⁴ the Constitution guarantees that ‘the validity of any proceedings in Parliament shall not be called in question in any court of law on the grounds of any alleged irregularity of procedure and under Art. 122 (2): ‘no officer or Member of Parliament in whom powers are vested by or under this Constitution for regulating procedure or the conduct of business, or for maintaining order in Parliament shall be subject to the jurisdiction of any court in respect of exercise by him of those powers’. There is an absolute accountability of the Parliament towards the people.

³² The Constitution of India, Art.13 says, “Laws inconsistent with or in derogation of the FR shall be void to the extent of such inconsistency”.

³³ The Constitution of India, Art. 105, *See also* Prof S.P. Singh, *Law of Torts*, 266 (Lexis-Nexis, Delhi, 7th edition, 2016).

³⁴ The Constitution of India, Art. 122.

Parliament at the federal level and Assemblies at the level of states are law making bodies as well as representative bodies. They reverberate the aspirations and interests of the people through various formal procedural devices that their representative may use on the floor of the House. The Constitution of India, therefore, under Article 118³⁵ makes each House of Parliament the master of their procedure. Accordingly, the rules that were in existence prior to our Constitution were amended and adopted by the Lok Sabha. These rules after due notification in the Gazette of India Extraordinary dated the 17th April, 1952, came to be known as *Rules of Procedure and Conduct of Business in the House of the People*. Since then, these rules have been amended from time to time on the recommendations of the Rules Committee. In the capacity as presiding officer, the Speaker, i.e., *the Chair* regulates the proceedings of the House and is equipped with the disciplinary powers comparable with those of the Speaker of the House of Commons.³⁶ These are precisely the objectives, to be achieved through these *Rules of Procedure* and the *Directions by the Speaker* laying down the procedural law of parliamentary practice.

Rules of procedure distinguish Parliament from other political assemblies. Conducting the business of Parliament and exercising detailed supervision of executive work requires certain regulations and an authority with a final say in order to make the deliberations systematic and fruitful. However, non-compliance of the procedural rules for conducting business of the House cannot be a ground for interference by the courts.³⁷ This also means that the House is accountable for its own procedure so far as it does not violate the Constitution. Parliament is, both the governor as also the governed. Besides its law-making character, the Parliament, as a body of Members, can criticise the government by turning down legislations

³⁵ The Constitution of India, Art. 118.

³⁶ M. P. Singh (ed.), *Constitution of India*, V.N. Shukla, 605 (Eastern Book Company, Calcutta, 12th edition, 2013).

³⁷ Pandit M.S.M. Sharma vs. Shree Krishna Sinha, AIR 1960 SC 1186: (1961) 1 SCR 96.

or objecting to Demands-for-Grants, if they do not seem justified, or, even bring a No-confidence Motion against the government resulting into fall of the government. Parliamentary procedure in India has adopted many practices and rules from British practice embodied in Sir Thomas Erskine May's *The Law of Privileges, Proceedings and Usages of Parliament* that have been transformed to the Indian conditions.

Though the procedures imperceptibly change in sessions of Parliament with the rulings and directions of the *Chair*, the central philosophy of democratic polity and principles of representation always remain intact. The change, therefore, reflects the social and political dynamism of a society. Further, these institutions, as visualised by our Constitution framers, are not bereft of responsive and courageous attitudes. The House leadership has been a guiding light to the executive as well as the institutions they are mandated to protect. The leadership of the House and other party leaders through Business Advisory Committee meetings and All-Party Meetings generally called before commencement of each Parliamentary session exert considerable influence on the government and its handling of the Parliament. The House leadership in spite of their compulsions and necessities of *adversarial politics* always try to uphold parliamentary values and create consensual atmosphere in decision making.

V. Parliamentary Law

The edifice of the institution of Parliament is built on 'Parliamentary law'. The basic philosophy and law of Parliament is a principal defence against the use of the executive's majority position. By Parliamentary law it is meant, the rules, conventions, usage and procedure emanating out of the inherent right of the Houses of Parliament under which they can regulate their own proceedings. Therefore, Parliamentary law is subject to formal rules, recent practices and past precedents. Our system of governance is a rule of the majority, but Parliamentary law is generally there to safeguard the rights of the minority, i.e., the individual Member, who is the smallest minority in any of the Houses. Whatsoever small or big his party is in the Parliament; the individual Member has the right to express his

concerns in the House. Parliamentary law, in other words, aims to “guard against the development of an elected dictatorship”.³⁸

A politically conscious electorate gets itself represented in the Parliament by mandating the Members of Parliament to voice their concerns. The Members, each representing lakhs of people, occupies a prestigious and privileged position in the Parliamentary scheme of things. At the same time, there are certain duties attached to a Member of Parliament. The legislator must be aware of the expectation and aspiration of the people s/he represents. Wherever expectations are clear-cut, cohesive and compelling, the legislator ought not to disturb them by making contrary law. The legislator, as Bentham has suggested, develop and practice the gentle art of guiding public opinion that can be safely found in adopting the middle path of educating through “example and instruction”.³⁹

In the Parliamentary context, the Member of Parliament has an inalienable and inherent constitutional right to seek information from the executive and to exercise surveillance over the functioning of the executive. In other words, the Parliamentary system of governance gets its democratic legitimacy and sustains its accountability to the people through allowing its representative to ask questions on the floor of the Parliament. This procedure brings the entire range of government activity to the parameters of Parliamentary gauge. The Question Hour with all its procedural developments and perceived sanctity stands as the single most important tool in the hands of the private members of the Parliament to perform their democratic duty and exercise their rights enshrined in the Constitution.

The basic feature of Parliamentary Questions is that they are answered by the Minister who is highest authority taking final decisions on a particular forte of the government. Question Hour, therefore, institutionalises an inquiry seeking information and often

³⁸ Boulton, C. J., (ed.), *Earskine May's Treatise on the Law, Privilege, Proceedings and Usage of Parliament*, 1 (Butterworths, London, 1989).

³⁹ *Supra* note 1 at xxviii.

assurance about any aspect of governance and administration. The Minister of the concerned Ministry owes a duty to render an answer to the Lok Sabha that could be verbal or in writing, considering the type of question raised in the *House*. Therefore, questioning session is a kind of trial for the Government. In fact, through the Question Hour, the government is also able to catch the nerve of the nation in terms of its needs and requirements and more importantly the immediate and urgent needs. Its importance lies in the fact that the concerned minister is present *in persona* to give reply on a particular subject. The daily assessment or the routine accountability⁴⁰ can be witnessed in the Question Hour, which is far more effective and fast in ensuring good governance. The government always remains under routine parliamentary checks through questions in the Parliament held every day during the session period. In order to fully understand the working of our Parliament it is necessary to know the various intricacies of its procedure, for the reason that the Rules of Procedure make a deep impact on the efficacy of raising an issue of public importance. The procedural part of the proceedings of the House of the People is an aspect, which gives a true understanding of the Question Hour.

VI. The Extent and Limit of the Present Research

The present research is restricted to the Lower House of the Parliament hereinafter being interchangeably referred to as 'the House of the People', or 'the Lok Sabha'. The House of the People not only deliberates upon the policies or makes laws for the country but also provides valuable information to the people through its debates and discussions under various procedural devices. Under the representative, informative and policy-making role of Parliament and its effective check on the executive, a very important procedural device has been adopted in both the Houses. This device is known as 'The Question Hour'. The present research studies and critically analyses the Question Hour in the House of the People (Lok Sabha) in the Parliament of India from the perspective of Constitutional and Parliamentary Law and Practice and suggests reforms that need to be

⁴⁰ *Supra* note 27.

made in the contemporary practices and the law in order to make this procedure more effective and functional in the entire scheme of parliamentary system of representation. It specifically relates to the asking and replying of Starred Questions, also called as Oral questions, which is the inherent procedure of the Question Hour.

4.1 Statement of the Problem

The Question Hour plays a very important role in the growth of the country. It is a live example of the Council of Ministers' accountability to the House. Question Hour is an important parliamentary device, which, through its unique character, plays an active role in nation-building. As per the procedure, a Minister, as head of a Ministry, takes questions from the Members in the House and gives replies to their questions, both in oral as well as written form. In the absence of any mandatory provision for its functioning, this crucial Hour faces challenges in the form of 'disruptions', resulting in adjournments or partial functioning, that affect the smooth process, which, if allowed to run, could have ensured a faster development. Hence, these disruptions adversely and severely affect growth. It is important to mention here that even one day's disruption and resultant adjournment/Partial functioning makes an adverse impact on the developmental process of the nation leading to wastage of valuable time and crucial resources of the *House*. The fact holds importance for the reason that Question Hour is an institutionalised procedural device of the House, which, through its unique procedure of answers given directly, often carry an element of assurance by the Ministers that ensures implementation of various welfare measures/policies to the lowest administrative unit. These assurances, if not fulfilled, makes him/her accountable to the *House* as well as the Government Assurances Committee of Parliament that monitors the fulfilment of assurance by the Minister. Hence, once a statement is made by the Minister in the *House*, the concerned Ministry/Department galvanises into action to fulfil that assurance on subject of public welfare. The implementation of such assurance/reply, as a follow-up, makes a 'ripple effect' in the form of developmental activities undertaken in the country. These may or may not be seen directly but do take place in the form of different

works undertaken by the government. On the contrary, the disruptions result in stalling the 'proceedings' of the Question Hour, which would have, otherwise, contributed in fast-tracking the growth process.

As the Parliament is empowered by the Constitution for making laws for its own functioning, the Problem relates to the Parliamentary Law as well as introducing change in such law. 'Public good' is the fundamental plinth on which rests the spirit of Parliamentary discourse. Question Hour has a deep correlation with Article 21 of the Constitution read with Directive Principles as it includes all those aspects that ensure a good and improved '*Life*' for a citizen. Article 21 of the Constitution provides a broad-base for procedures like the Question Hour. On this premise, the Question Hour can be called as '*the right to life in action*'.

To accelerate the process of growth and expand the developmental activity in the country, a change in Law is much required. It is pertinent to mention here that although there is already a provision in the *Rules of Procedure* for holding the Question Hour every day during session (*Rule 32*) but there is no provision for 'mandatorily' running the Question Hour. Such provision along with some other suggested reforms is required. It is important to mention that any other procedure of the parliament can be taken up again in case there is disruption or there can be extended/late sitting for the purpose, but the Question Hour cannot be compensated once the House gets adjourned due to disruptions. This is for the reason that Starred/Oral questions cannot be repeated, unless a fresh notice is given for the same and thus are included in the list of Unstarred/Written Questions. The problem can be summarised as below:

- The Question Hour faces challenges in the form of 'disruptions' in the House resulting in adjournments, which affects its smooth functioning.
- Disruptions resulting in adjournment even for a day causes loss to the nation as the questions are not taken up leading to wastage of time and intellectual resources of the House.

- The developmental work as a follow-up to the replies does not see the light of the day and is not even initiated, which affects the growth of the nation.

Further, there are problems pertaining to management of time in asking questions, timings of the Question Hour etc.

As the Problem relates to the Parliamentary Law and change in such law, the primary rule has been given in the form of addition to the existing law of Parliament. Some other changes in the form of new rules have also been introduced to the existing rules. Certain suggestions have also been made for introducing reforms.

4.2 Hypothesis

Considering the issues that have been raised in the previous sections, the hypotheses tested in the study are:

1. Question Hour is an important parliamentary device, which, through its unique character, plays an active role in national growth.
2. The Question Hour faces challenges in the form of disruptions. These disruptions adversely affect the growth-process of the country.
3. 'Public good' is the fundamental plinth on which rests the spirit of Parliamentary discourse. Question Hour has a deep correlation with Article 21 read with Directive Principles as it includes all aspects for improving the '*Life*' of a citizen which makes it all the more crucial and essential to public life.
4. To accelerate the process of growth and expand the developmental activity in the country, a change in Law is much required to make the Question Hour a 'mandatory provision', *vis-a-vis* other reforms.

4.3 Coverage of the Study

- The present research examines the practice of utilisation and functioning of Question Hour in the last 6 years commencing from 2010 to 2015. The study covers all aspects of the Question Hour.
- The research recognises the significance of this important parliamentary procedure in terms of growth and advancement of society and identifies faster development objective of the Question Hour for a citizen's *right to a good life*.
- The study further examines as to how the various obstructions in the form of disruptions in the Question Hour have been a hurdle in advancing the Indian democratic process of law-making, growth and development.
- After a thorough study and evaluation of the question procedure, there is a humble endeavour to provide certain suggestions that specifically create new rules to the existing rules.
- Further, the study also finds certain options and practices adopted in other parliamentary systems especially, the *House of Commons* in the U.K. Parliament, and suggests in the concluding chapter to adopt some of the special practices of the Question Time in the *House of Commons*.
- So far, the Question Hour in the Lok Sabha has been described in the *Rules*, hence an attempt has been made to provide a holistic *Definition* to the Question Hour in the research work.
- A new *Definition* to the concept of Democracy has also been endeavoured upon.

The study resolves all queries on the Question Hour aspect. It does not cover the period since independence as it was not practically possible for the reason that each day of the Question Hour requires minutest details, precise observation and a deep study of the

proceedings. However, this does not make any impact on the overall assessment and evaluation of the subject while reaching at the findings. The study encompasses all important aspects of the procedure within the domain of questions raised and presents a holistic picture of the procedure making logical conclusion and suggestions.

4.4 Objectives of the Research

- There is a growing inquisitiveness amongst the people to know as to how their parliament works. The proposed research is undertaken with the intent to create awareness towards the importance and utility of parliamentary devices especially the Question Hour and to suggest measures for its reforms.
- There has not been much research in India on the Question Hour aspect of parliamentary law. This initiative may open up new avenues of research/study for students of Indian and foreign universities from legal as well as moral, political, administrative and sociological perspectives.
- The research may also be useful for Members of Parliament and civil servants in taking up the task of public services.
- This research on parliamentary procedures could also serve as an important dialogue partner in the good governance discourse.

4.5 Plan of the Study

The researcher through the present plan of study examines the role of the Question Hour in the development of the country and the challenges it faces. The various stages of the questioning procedure with laws evolved from time to time have also been studied. In addition to analyses of relevant rules and regulations pertaining to the subject, a picture has been drawn on the functioning of the Question Hour. Significant case law on the subject has been sighted with judicial and academic interpretations. The researcher has also given a holistic definition to the Question Hour. As envisaged, structure of

thesis consists of six chapters, each of which contains several sub-topics. Thus, in the light of above problem, scope and objectives, the present thesis is divided into following chapters:

Chapter 1 - Introduction: The chapter is divided into various sub-topics and is proposed to attenuate the exposition in the form of introduction to the topic and principally deals with the theoretical and conceptual background for Question procedure, basic philosophy behind the Constitution, the concepts of parliamentary democracy, governance and accountability in the Parliament and practical jurisprudence of Parliamentary law with special reference to the Question Hour. Further, a brief plan of the research has been provided in the form of research problem, hypothesis drawn, scope, methods employed and objectives of the study. Later a brief chapter scheme of the research study is discussed.

Chapter 2 - Evolution of the Question Hour in Parliamentary Tradition: The second chapter informs about the evolution and historical background of Question Hour through various legislations in the British regime including the stages involved in initiating this procedure with pre-Independence and post-independence changes introduced in the questioning process and provides the jurisprudential exposition on parliamentary practices with growth of various schools of law/legislation developed through centuries.

Chapter 3 - Objectives, Processes and Functioning of the Question Hour: In this chapter, the researcher deals with the Constitutional and Parliamentary law as well as the functioning of the House. The Constitutional provisions empowering the Parliament to make its own rules and regulations for its internal functioning are explicitly mentioned. Consequently, the Lok Sabha has made its own rules of Procedure for its efficient and systematic functioning that find a mention in the chapter. The follow-up procedure and mechanism for implementation of the replies during the Question Hour has also finds a mention. The chapter also describes the actual process of how the Question

Hour functions. It has also been seen from the perspective of important functionaries/interest groups of the House, wherever necessary, analyses of provisions of Question Time in countries like the U.K. has also been provided.

Chapter 4 - The Significance of the Question Hour in the Light of Right to Life and Personal Liberty: This chapter is a unique attempt to view parliamentary practice from the Fundamental Rights jurisprudence in order to understand the significance this crucial procedure holds in the scheme of things. Article 21 of the Constitution - *Right to Life and Personal Liberty*, is the pillar on which stands the edifice of parliamentary functioning. An effort has been made to have an interface between Article 21 along with the Directive Principles of State Policy and the Question Hour. India is a 'Welfare State', as is enshrined in the *Preamble*. A good life is not only the basic need of humans but is also ensured as a *Right* under the Constitution of our country. And the Parliament, in its collective consciousness, functions with this consideration as the primary objective. Further, the Right to Information, an offshoot of Article 21, also ensures peoples' right to elicit information from the Parliament for becoming an informed citizenry and exercise their political right to choose their representatives. The Question Hour, in the light of Article 21, is being understood as a positive endeavour of our legislatures towards ensuring peoples' *right to a better life*. The chapter has been divided in various parts, the importance of right to life expounded through case studies and their relevance in the subjects of the Question Hour, a fresh interpretation to the Directive Principles and the Right to Information Act as a metaphor to the Question Hour has been presented to express the importance this crucial parliamentary procedure.

Chapter 5 - Challenges in the Question Hour: It deals with the problems and challenges faced in the smooth functioning of the Question Hour. The primary of them being 'disruptions' occurring in the Question Hour that result in adjournments, pandemonium or disturbance in the House. In addition to this, some other problems have also been highlighted.

Chapter 6 - Conclusion and Suggestions: This is devised to conclude the thesis and makes a humble endeavour to analyse and evaluate the concept of the Question Hour. The chapter also exposit the importance of this practice for the country. The chapter concludes by giving suggestions for introducing law in the form of rule and some other suggestions in human resource development.

4.6 Methodology

The methodology adopted in this research involves an inclusive approach. In the Doctrinal method analyses of case-law, systematising legal prepositions and study of the Parliamentary law and procedure has been undertaken. An effort has been made to create law in the form of new legislative provisions through reasoning. In addition to the established theories on the subject, the study relies on experience or observation. It also concerns with the identification or creating an awareness of the new problems, or problems not brought forth so far, which need to be tackled through law. During the study analytical and exploratory research methods have also been used in the Question Hour to go deep into the reasons behind 'disruptions' for a theoretical analysis of its structure and functioning leading to a more practical regulative ideal with possibilities of new ideas and suggestions.

The research employs primary as well as secondary sources. The primary material includes the relevant constitutional provisions, national legislations, Rules of Procedure, Directions by the Speaker, case-studies and their legal interpretations and administrative decisions and official websites. The secondary material includes books, Lok Sabha debates, journals, and Constituent Assembly debates. In the process of writing this thesis, several methods such as description, synthesis, analysis, interpretation and comparison are used. The descriptive and synthetic methods are used to collect all materials on Question Hour and to give the main contents of the provisions on Question Hour in the Indian Parliament.

4.7 Literature Review

The *Constitution of India is the basic Law of the land*, which empowers all organs of the State to make their own Laws. Article 118 (1) of the Constitution entrusts our Parliament to make its own laws for its functioning.

The Book, *Parliamentary Practice and Procedure*, by Kaul and Shakhder (Lok Sabha Secretariat Publications, New Delhi, 1968, 2009 and 2016 editions) is a treatise for understanding the whole functioning of Lok Sabha. It is a detailed exposition of the Rules of Procedure and Conduct of Business in the House. It gives the history, functioning and other details of the Question Hour. These *Rules* are of utmost importance for the success of any Parliamentary system of governance.

Jeremy Bentham's Theory of Legislation by Upendra Baxi, Lexis Nexis Butterworth, 2008 is a book that defines the philosophy behind Law-making, the Science of Legislation and the responsibilities of a Legislator.

Erskine May: Parliamentary Practice. Erskine May's Treatise on the Law, Privileges, Proceedings and Usage of Parliament, Lexis Nexis, 24th edition; 2011 is authoritative text on Parliament originally written by British constitutional theorist and Clerk of the House of Commons, Thomas Erskine May and would be beneficial in providing information on the practices in the Question Time in the U.K. Parliament

The book *Jurisprudence* by Dr. B.N. Mani Tripathi, Faridabad, Allahabad Law Agency, 2008 is an exposition on jurisprudential aspect of law-making and mentions about the stages of development of Law, different Schools of Thought and Legislation as a source of Law.

Prof. S.P. Singh in his book, *Law of Torts*, Delhi, Universal Law Publishing Co. Pvt. Ltd., 2006, on his description on Absolute Privilege, deals with Parliamentary Privileges of public representatives

for having immunities against anything said or done within the precincts of the House.

Sir Ivor Jennings's book *Parliament*, Cambridge, Cambridge University Press, 1969 gives a detailed exposition about the Questions and their purpose in the House.

S. K. Verma & Prof. M. Afzal Wani in their book *Legal Research and Methodology* (ILLI, Delhi, 2nd edn., 2001) explain about the concept of research, various research techniques and ideas which are of immense help to a Law researcher.

Boulton, C J, ed., *Erskine May's Treatise on the Law, Privilege, Proceedings and Usage of Parliament*, London: Butterworths, 1989, p. 1. has stated, "Parliamentary law, in other words, aims to guard against the development of an elected dictatorship".

The Lok Sabha Literature

Besides the above, *the Rules of Procedure, the Directions by the Speaker, the Abstract Series, Handbook for MPs, Journal of Parliamentary Studies* and other similar Lok Sabha Publications have been studied to understand the functioning of the Parliament and the Question Hour. Apart from that, the parliamentary articles/journals also throw light on day-to-day working of the House.

Case Laws

Raja Ram Pal vs. The Hon'ble Speaker, Lok Sabha & Ors. (Writ Petition (civil) 1 of 2006) relates to the cash for query scam revealed during the Question Hour in the House resulting in the said case.

In India, the Constitution, as has been laid, is the Supreme law of the land – the *Grundnorm*. The Supreme Court cleared this position in the case of *A.K. Gopalan vs. the State of Madras*, (1950 AIR 27; 1950 SCR 88.). This is reflective of the concept of popular sovereignty. The People are the power and the political system owes its answerability to the common people.

In *K.G. Thomas vs. Commissioner of Income Tax, Madras, AIR, 1958*, it has been clearly established that it is the Constitution which is supreme and all law originates from the Constitution, meaning thereby, the Parliament derives its legitimacy as well as the law from the Constitution.

In *Francis Coralie case* (1981 AIR 746), the Court has observed that right to life does not merely mean animal existence, but it includes a person's right to live with dignity, completeness and a life worth living.

Statutes

Detailed discussion on *the Forest Dwellers' Rights Act, 2006*⁴¹ exemplifies the concept of *balancing the competing interests as propounded by eminent sociologist, Roscoe Pound*. Rules made under the Government of India Act of 1909, 1919 and Government of India Act of 1947 are important from historic point of view as these acts explain the various developments witnessed in the Question Hour. Further, the Right to Information Act, 2005 empowers a citizen to have information from Government agencies/functionaries.

Journals/Committee Reports

Lok Sabha Secretariat, *The Journal of Parliamentary Information*, Vol. LVII, No. 4, Dec. 2011, pp. 393-4, besides other details, gives information about how many Questions are taken up every day in the House and other details.

Second Report of the Committee to inquire into Misconduct of Members of Lok Sabha on 'various facets of misconduct and basic attributes of standards of conduct/behaviour expected of members' (fourteenth Lok Sabha) (presented to the Speaker, Lok Sabha on 31 March, 2008) Lok Sabha secretariat, New Delhi, April, 2008/Vaisakha, 1930 (Saka)

⁴¹ Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (No. 2 of 2007).

Web-Literature

- <http://loksabha.nic.in> gives first-hand information about our Parliament and its components, especially the House of the People i.e., the Lok Sabha.
- parliamentofindia.nic.in also gives details of parliament, its functioning and rules regarding the procedure.
- www.parliament.uk provides for some special provisions viz., the Prime Minister's Question Time and such other important procedures for a comparative study.
- Internet Encyclopaedia of Philosophy (IEP): available at: <https://www.iep.utm.edu/> give details about the Natural Law theory as also legal positivist like Jeremy Bentham.
- <https://plato.stanford.edu/entries/> throws light on the philosophy of Bentham.
- <https://www.britannica.com/> provides inputs on the social contract theory.

Tele-literature

With the advent of Lok Sabha Television, in 2005, there has been a drastic change in the form of public representation as the people now watch their representatives raise issues *Live* on the television. This *Live* telecast of the Question Hour is alive day-to-day observation of the functioning of the House that draws a complete picture of the Question Hour. It has been of immense utility in the research.

4.8. Note on Language

There are certain terms/usages exclusive to the Indian Parliament/Legislatures and other parliaments especially the British House of Commons. These words could have general meanings but they have different and specific meanings in parliamentary context. The

emphasis is on the practice in our Parliament. Some of these terms are:

‘Act’ in Parliament is an action, a thing done or established, a written law formally passed by the legislative power of a state, a bill enacted by the legislature into a law. In India, a bill passed by the two Houses of Parliament and assented to by the President and in the absence of an express provisions the contrary, operative from the date of notification in the Gazette.

‘Starred Question’ is a question seeking oral answer from the Minister in the House, distinguished by an asterisk (*). ‘Un-Starred Question’ is a question which seeks a written answer; it is not distinguished by an asterisk and it is not asked orally.

‘Table of the House’ is the central Table located in the midst of the House of Lok Sabha, just in front of the table of the Secretary General. Papers, in pursuance of the constitutional provisions, statutes, rules, directions are formally placed on the Table. Officials of the secretariat sit at the Table for all official transactions.

In addition to the above, there are many usages/terms exclusive to the Parliament/Legislatures, viz., Debate, Unstarred Questions, Calling Attention, supplementary questions, Half-an-hour discussion Guillotine, Hung Parliament, Joint Sitting, Motion, Prorogation, Speaker, Voice-Vote, Vote-on-Account, etc. Besides, there are many Usages also, viz., *I am on my legs Madam Speaker*, *I have not yielded*, *Well of the House*, *crossing the Floor* etc. The parliamentary terminology would be employed, wherever required, with correct explanation.

5. The Ultimate Focus: Lok Sabha and The Question Hour

The Lok Sabha is constituted by direct election on the basis of voting by all citizens who have attained the age of majority, which is known as ‘universal suffrage’. Under the British regime, the right of franchise was granted to only a small fraction of population. This was for the reason that a number of eligibility conditions had been laid with regard to educational qualification and assets. By granting universal

suffrage, the Constitution associated every citizen with the government and truly laid the foundation of a responsible government in the country. There were many who, at that time, thought that this extension of franchise would not be in the interest of the country as the ignorant masses had no training in democratic form of government and thus would not be able to exercise their rights properly, but this proved not to be true as the nation voted to elect their representatives every five years giving their mandate to form a government that could take care of their needs and work for their welfare. Consequent to the Constituent Assembly debates, the first Lok Sabha or the House of the People was duly constituted on 17th April, 1952 after the first General Elections held from October, 1951 to February, 1952 and the first Session of Lok Sabha was held on 13th May, 1952. Shri G.V. Mavalankar was the first Speaker of Lok Sabha (1952 to 1956). Shri M. Ananthasayanam Ayyangar was the first Deputy Speaker of Lok Sabha (1952 to 1956).

In the present set-up, the total membership of the Lok Sabha is 552, this includes maximum 2 members from the Anglo-Indian Community whom the President nominates if s/he feels that this community does not have sufficient representation in the Lok Sabha, up to 20 members from the Union Territories and 530 members by elections who represent the states. The entire country has been divided into many constituencies with territorial limits. This is for actualising the concept of representation. Generally, one member represents one constituency and on behalf of the constituents raises the demands and problem of the constituency. The total membership is distributed among the States in such a way that the ratio between the number of seats allotted to each State and the population of the State is, so far as practicable, the same for all States.⁴² The House of the People elects its Speaker and Deputy Speaker⁴³ from amongst its members. The rules of the House of Commons in the United Kingdom defining the position of Speaker in the British parliament are the originator of the Speaker's position in the House of the

⁴² Parliament of India, Lok Sabha; available at: <http://loksabha.nic.in/> (last visited on 14.02.17).

⁴³ The Constitution of India, Art. 93.

People in India. Both are similar positions and are parallel in terms of functions. The Speaker is the ultimate authority to give his/her final ruling on any issue within the precincts of the House.

The House of the People or the Sixteenth Lok Sabha comprised of 543⁴⁴ members directly elected by the people to ‘represent the will of the people’. It can, therefore, be stated that the Lok Sabha is ‘the primary democratic institution that represents the expectations and hopes as well as strives to realise the aspirations of the people’. The House not only deliberates on the policies, schemes of the government, or makes laws for the country but also provides valuable information to the people through its debates and discussions under various procedural devices. A representative democracy should be dynamic and should involve flow of information through debate and discussion as has also been observed ‘democracy is governance by debate’. It is here that the representative and informational role of Lok Sabha holds great importance especially in view of the enactment of one of the most important legislations - the Right to Information Act, 2005 under which any citizen of the country has the right to elicit information of any kind, subject to some legitimate limitations at the same time ensuring our fundamental right to a decent and dignified life. In this regard, it has been very rightly stated:

*“Ideally, in any democratic polity, sovereignty vests with the people. It is from the will of the people that the government derives its legitimacy. And the will of the people must manifest itself through Parliament. Parliament is expected to mirror their hopes and aspirations. It is in this forum that the ideas, the ideals, the fears and even the frustrations of the people can find expression”.*⁴⁵

It is very rightly stated that Legislatures, with their elected members are forums of open debate on planning, priority setting and decision making. They serve as agent of popular and technical review and

⁴⁴ <http://164.100.47.132/LssNew/Members/Alphabaticallist.aspx>(last visited on Feb.15, 2017).

⁴⁵ Subhash C. Kashyap, *Parliamentary Procedure, Law, Privileges, Practices and Precedents*, V (Universal Law Publishing, Delhi, 2006).

revision.⁴⁶ The 15th Lok Sabha was constituted in May 2009 after the general elections. It was dissolved in May, 2014 by the President. The general elections for the 16th Lok Sabha were held in 2014 and was constituted in May 2014. During the last many years our Parliament with its various procedures has been fairly busy tackling all sorts of problems, socio-economic, financial, constitutional and matters of international affairs. But, our political and democratic institutions have had a modern and sensible approach towards the society and the nation at large along with maintaining the rich heritage of the past. They are geared to the social cause and are not only capable of delivering the goods but are actually making drastic reforms. Many of the political analysts have been contesting the fact that the socio-economic health of a nation depends to a great extent on the kind and functioning of Public Institutions existing there, which is also reiterated in the lines given hereunder:

*“Through their mechanisms and processes, public institutions pool together interests, concerns and pursuits, suggest ways and means of negotiating across them, strive to develop a shared understanding, separate the significant from not-so significant, and propose devices for the implementation of their decisions. As a system of rules, they determine who gets what, when, how and why. They establish the condition for bounded rationality and make room for many interdependent actors to function...The difference between a good society and a good polity, on the one hand, and a bad society and a bad polity, on the other, largely depend upon the nature, strength and efficacy of public institutions.”*⁴⁷

6. Question Hour: Meaning and Definition

While the Lok Sabha sits for its sessions, the first hour of such sitting is generally employed for queries and their responses, i.e., the asking and replying of Questions and this hour is called the Question Hour.

⁴⁶ D. Sundar Ram, “Introduction within the Parliamentary Institutions in India”, in D. Sundar Ram, *Parliamentary Institutions in India: Development or Decay*, (first edition 1998 ISBN 81-86803-31-9, see Apter David, *The Premise of Parliamentary Planning: Government and Opposition*”, Vol. 8, No.1, Winter 1973.).

⁴⁷ B.L. Shankar, Valerian Rodrigues, *The Indian Parliament: A Democracy at Work*, 1 (New Delhi, Oxford University Press, 2011).

The Question Hour is that time of parliamentary procedure when Members of Parliament can directly ask questions to the government and elicit information and, in many cases, obtain assurances from the government on policies, schemes, welfare measures, public projects and any other thing on which government responsibility could be fixed. The Government and their welfare plans and policies get apt attention nationally as well as internationally when the members focus on specific issues extracting crucial information during the Question Hour from the Minister/s who is in charge of a Ministry. Such replies not only give information but often carry an element of 'assurance' by the Minister that need to be fulfilled. If not fulfilled within a stipulated time, the Government Assurance Committee of the Parliament monitors the assurance and can call the Minister or his/her representative for clarification on non-fulfilment of the assurance. While attempting to the definition of the Question Hour, it can be defined as,

Generally, the first hour of a session of the House of the people exclusively dedicated for asking of Starred/Oral questions and laying of Unstarred/Written questions by Members of Parliament on matters of public utility and government policies thereto, on which an explicit reply is given by the concerned Minister or his deputy, on his behalf, orally or in writing, as the case may be, on the floor of the House thereby fixing direct accountability of the government towards the House.

The Question Hour is a testimony to the direct accountability of the Council of Ministers to the people under the Constitution. Governmental actions in all domains of public welfare are thoroughly weighed during the lively and dynamic functioning of Question Hour. Moreover, Oral Questions are a highly effective means of provoking action as the Minister, as head of a Ministry, takes direct questions from the Members in the House and gives oral replies to their questions. The pace of developmental work gets faster as the concerned Ministry galvanizes into action to implement the reply given by the Minister. Not only that the public representatives, through their questions, continually inform the electorate about the rights and wrongs of the administration and the political system. The interface between the public representatives (Members) and the

Ministers gives vitality to the democratic politics and expedites the pace of progress within the country. This crucial procedure is considered as one of the most important and unique procedures within the parliamentary practices and procedure.

7. Conclusion

There is an urgent need for all focus on Question Hour by all researchers on democratic performances. Without that any understanding of the system is incomplete.

UAPA: AN ANNUAL REFERENCE DIGEST 2021

Important Judgments of Supreme Court & High Courts Aaratrika Bhaumik 8 Jan., 2022 11:33 AM SHARE THIS - As we step into 2022,

[<https://www.livelaw.in/top-stories/2021-annual-digest-on-unlawful-activities-prevention-act-1967-189043?infinitescroll=1>]

1. Violation Of Fundamental Right To Speedy Trial Is A Ground For Constitutional Court To Grant Bail In UAPA Cases: Supreme Court [Union of India v. K. A. Najeeb]

<https://www.livelaw.in/top-stories/2021-annual-digest-on-unlawful-activities-prevention-act-1967-189043?infinitescroll=1>

2. Bail- Restrictions In Section 43D(5) of UAPA Act Are Comparatively Less Stringent Than Section 37 NDPS Act [Union of India v. K.A. Najeeb]

<https://www.livelaw.in/top-stories/2021-annual-digest-on-unlawful-activities-prevention-act-1967-189043?infinitescroll=1>

3. Supreme Court Dismisses NIA's Plea Challenging Default Bail To Sudha Bharadwaj In Bhima Koregaon Case [NIA v. Sudha Bhardwaj]

<https://www.livelaw.in/top-stories/2021-annual-digest-on-unlawful-activities-prevention-act-1967-189043?infinitescroll=1>

4. UAPA- Period Of Deprivation Of Personal Liberty Pending Trial Cannot Be Unduly Long: Supreme Court Grants Bail To Accused [Ashim @ Asim Kumar Haran]

<https://www.livelaw.in/top-stories/2021-annual-digest-on-unlawful-activities-prevention-act-1967-189043?infinitescroll=1>

5. UAPA - If Chargesheet Does Not Reveal Prima Facie Case, Embargo For Bail Under Sec 43D(5) Won't Apply [Thwaha Fasal vs. Union of India]

<https://www.livelaw.in/top-stories/2021-annual-digest-on-unlawful-activities-prevention-act-1967-189043?infinitescroll=1>

6. Mere Support To Terrorist Organization Without Intention To Further Its Activities Does Not Attract Section 38/39 UAPA [Thwaha Fasal v. Union of India]

<https://www.livelaw.in/top-stories/2021-annual-digest-on-unlawful-activities-prevention-act-1967-189043?infinitescroll=1>

7. Supreme Court Refuses Bail To A Lawyer In UAPA Case For Alleged Link With ISIS, Describes The Allegations As "Serious" [Uber Ahmed v. State of Gujarat]

<https://www.livelaw.in/top-stories/2021-annual-digest-on-unlawful-activities-prevention-act-1967-189043?infinitescroll=1>

8. UAPA- State Police Has Duty To Continue Investigation Of Schedule Offence Till NIA Actually Takes It Over [Naser Bin Abu Bakr Yafai v. State of Maharashtra]

<https://www.livelaw.in/top-stories/2021-annual-digest-on-unlawful-activities-prevention-act-1967-189043?infinitescroll=1>

9. Magistrates Cannot Extend Time To Complete Investigation In UAPA Cases: Supreme Court [Sadique vs. State of Madhya Pradesh]

<https://www.livelaw.in/top-stories/2021-annual-digest-on-unlawful-activities-prevention-act-1967-189043?infinitescroll=1>

10. Supreme Court Dismisses NIA's Appeal Against Bail Granted To Man Facing UAPA Trial For Joining ISIS [NIA v. Areeb Eiaz Majeed]

<https://www.livelaw.in/top-stories/2021-annual-digest-on-unlawful-activities-prevention-act-1967-189043?infinitescroll=1>

11. Default Bail: State Cannot Take Advantage Of Filing One Charge Sheet First And Seeking Time To File Supplementary Charge-sheets To Extend The Time.

<https://www.livelaw.in/top-stories/2021-annual-digest-on-unlawful-activities-prevention-act-1967-189043?infinitescroll=1>

12. "High Court Has Committed Wrong" Supreme Court Takes Objection To HC's Order Granting Parole To A UAPA Convict When SLP Was Pending Before SC.

<https://www.livelaw.in/top-stories/2021-annual-digest-on-unlawful-activities-prevention-act-1967-189043?infinitescroll=1>

13. Payment Of Extortion Money Does Not Amount To Terror Funding: Supreme Court Grants Bail To UAPA Accused [Sudesh Kedia v. Union of India]

<https://www.livelaw.in/top-stories/2021-annual-digest-on-unlawful-activities-prevention-act-1967-189043?infinitescroll=1>

14. "Not At This Stage": Supreme Court Rejects Bail Application Of Akhil Gogoi In UAPA Case Relating To Anti-CAA Protests [Akhil Gogoi v. NIA]

<https://www.livelaw.in/top-stories/2021-annual-digest-on-unlawful-activities-prevention-act-1967-189043?infinitescroll=1>

15. The Delhi High Court has found that offences under the Unlawful Activities Prevention Act (UAPA) are not made out prima facie against student leaders.

<https://www.livelaw.in/top-stories/right-to-protest-not-terrorist-act-uapa-delhi-high-court-asif-iqbal-tanha-natasha-narwal-devangana-kalita-175736>

REPORTS ON CONFERENCES/ SEMINARS ETC.

Two-day IOS on-line International Conference on “Identification of Principal Foundations for Global Peace (January 23 and 24, 2021)

New Delhi: A two-day international conference on “Identification of Principal Foundations for Global Peace” was organised by the Institute of Objective Studies on January 23 and 24, 2021.

The inaugural session began with the recitation of a verse from the Quran by Hafiz Athar Husain Nadwi.

In his welcome address, the secretary general, IOS Prof. Z.M. Khan, laid emphasis on the contours and foundations on which peace rested. Healthy commitment on the part of those who wanted global peace was essential to attain the goal.

Referring to the activities of the IOS, he said that its scope was diverse. While it was focusing on deprived and marginalised sections, minorities, especially Muslims, by way of survey and study of their socio-economic status, the other areas included independent, impartial and collective efforts in research.

For research, the institute selected various themes of topical value and asked scholars to submit their papers for approval by the committee set up for the purpose. Recently, the institute conducted a survey on elections and the people’s opinion on them. The IOS had also instituted a scholarship scheme under which scholars engaged in research, were awarded scholarship to complete their research.

Besides, an Ibn Khaldun lecture series had been started to revisit the rich legacy of Muslims. Two awards, Shah Waliullah Award and IOS Life-time Achievement Award had been instituted to honour scholars every year in recognition of their exceptional contribution to various fields of scholarship. Prof. Khan said the annual calendar of IOS was another notable publication that had become popular among the

researchers and students due its value in terms of latest data on a variety of subjects.

In addition, a rich database was available to cater to the needs of researchers. He said that the institute was in search of new paradigms and everyone was invited to join the task.

Introducing the topic, professor of law, Guru Gobind Singh Indraprastha University and the vice chairman, IOS, Prof. M. Afzal Wani, described the ferocity of the World War-I by saying that about 6 million people died in it. Painting a dim picture of today's world, he said that about 822 million children went hungry every day. Besides, around 3 million people died every year even today. Social scourge had led to the threat to the institution of family and the rate of the breaking of marriage had gone up to 6 percent. About 150 million children were working as labourers, some of them being employed in hazardous industries. Twenty-two million children were without father and one-third population of the world had no access to potable water. After the World War-II, a new regime emerged with several conventions having been signed by the comity of nations, he remarked.

Inaugurating the conference, Prof. Dr. Bruce W. Dayton, professor and chair of master of peace and justice leadership, master of diplomacy and international relations and executive director of the Contact Peace-building Institute at the School for International Training in Brattleboro, Vermont, USA, held that for peace, the world was at a crossroads. He said that poverty globally increased over the last 22 years. About 70 million people were displaced all over the world. World peace could be possible if constructive law of peace and conflict resolution was enforced.

He went into the circumstances leading to the creation of the United Nations, an institution of global peace. But a new pathway to world peace had to be found. Explaining the concept of peace, he said that it was important to know what peace was and what existed in schools and masses. Everyone thought of peace and peace research. Many societies might seem to be in peace. But that was not the case. There

was a triangle of violence: cultural violence, structural violence and racial violence.

He also spoke on the method of measuring peace and said that a great deal of work on measuring peace had been done during the last two decades. Referring to global index of peace and indication of peace, he held that it was an imperfect instrument. Once one defined peace, he/she needed to be able to measure it.

He also talked about conflict, which could be between people, between groups and nations. Conflicts were universal, natural and inevitable. Conflicts could be handled constructively or destructively. He said that whenever one had conflicts, he had a choice like writing a blog, entering the political arena, negotiation and finding an intermediary.

Dr. Dayton described the UN system as the foundation for global peace. The UN had four principal organs, viz, the Security Council, General Assembly, Economic and Social Council and the Secretariat. Former Secretary-General of the UN Boutros Boutros-Ghali had said that there were four pillars of an agenda for peace. They were to be exercised by the world body. These were: preventive diplomacy, peace keeping, peacemaking and peace building. Referring to the problem of sovereignty, he said that under state sovereignty, states were in complete control of people and the property within their territory. There had been decrease in wars after the World War-II. But the weakness of the UN system was also significant in certain pockets like Syria and others. He called for adopting the perspective of an optimistic realist for global foundations for peace. Earlier, peace rested with states but now it rested with many organisations, movements and groups. He stressed the need for adopting a cosmopolitan view of global peace.

In her special address, adjunct associated professor, university of Notre, Australia, Dr. Ana Penteado, said that intellectual property rights might be the future issue of disputes. What was missing in the intellectual property rights was the common heritage right like jurisdiction over oceans. She said that the world community should

identify means for achieving global peace. In this connection, she quoted Pandit Jawaharlal Nehru's efforts and Mahatma Gandhi's concerns about the conflict between the United States and the Soviet Union.

She felt concerned over pollution that was the main contributory factor in the increase of global warming. She opined that international politics should be reshaped; laws reshaped to give more leverage to honesty, respect to mutual treaties and trust.

All stakeholders needed to work together for strengthening world property rights organisations. Member states needed some guidelines regarding genetical resources. All the treaties should be considered without prejudice. Similarly, database, local genetic resources etc. should be shared for mutual cooperation. International instruments should be integrated to benefit people. There was also a need for a forum for decision-making. She suggested that the IOS might be engaged for working towards global peace.

In his expert discourse, director, Indian Law Institute, New Delhi, Dr. Manoj K. Sinha, emphasised the need for signing a treaty for the prevention of the production of nuclear weapons to achieve world peace. German philosopher, Immanuel Kant had as early as 1795 said that a republican system of governance was possible if there was respect for human rights, both internally and externally. Today, the world had become a global village due to the advancement of technology.

Comparing the Universal Declaration of Human Rights, 1948 with Articles 28 and 38 of the Indian Constitution, he said that Article 38 read: "The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of national life."

Article 28 stated, "No religious instruction shall be provided in any educational institution wholly maintained out of state funds." He insisted that it was incumbent on the state to safeguard human rights.

Peace could be achieved by ensuring social, cultural and economic rights to the people in global context.

Chapter-1 of the United Nations outlined its purposes and principles which included maintaining international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to peace, and for the suppression of acts of aggression or other breaches of the peace.

The Security Council of the UN had been tasked with maintaining peace and security. He said that since 1990, humanitarian intervention of the UN to stop violation of human rights in several countries was a major factor for peace. He commented that global poverty constituted major threat to peace. Poverty could not be eliminated by any one state, but by joint efforts as well as sustainable development. The nature of conflict had changed and due to internal migration and displacement of population. In Syria and Sudan, lakhs of people had migrated from one state to the other. The grim situation could be gauged from the fact that globally about 272 million people was in search of employment. So far, 43 million people had been displaced globally and 400 million persons were stateless. He said that the displacement of persons was a big issue today and required urgent attention for the restoration of peace and their security.

In her special narration, former rector, International Islamic University, Malaysia, Dr. Dato Zaleha Kamaruddin, spoke on UN Security Council resolution 5 on women, peace and security. She held that peace and security could only be achieved and sustained if all members of society had equal opportunities. Referring to women and armed conflict, she said that the conflict had destructive effects of on women and girls the most. Women and girls bore the brunt of many of the harmful consequences of armed conflicts. Maternal mortality and women's land rights were some of the pressing issues that required serious attention.

Powerful women must get full participation in peace negotiations. Inclusion of justice and security too were basic indices for women,

peace and security. Women should get education, financial inclusion and the use of cellphone. They should also get parliamentary representation. She said that the OIC's (Organisation of Islamic Conference) plan of action for the advancement of women adopted by second ministerial conference on women's role in development held in Cairo last November be implemented.

In his words of appreciation, the chairman, IOS, Dr. Mohammad Manzoor Alam, welcomed the views expressed by different speakers and said that the power of peace in a globalising world could not be underestimated. It was the idea that ruled the world following which some positive changes were taking place. Oneness of humanity could ensure peace and development in the world. Thus one needed to define what humanity was. As intellectuals, it was the duty of academics to face the challenges confronting humanity, he concluded.

The inaugural session ended with a vote of thanks by Prof. Afzal Wani.

Technical Session-I

The first technical session was presided over by Prof. Z.M. Khan with Dr. Queeny Pradhan Singh, professor of history, university school of law and legal studies and dean, university school of mass communication, GGS, IP university, Delhi, speaking on historical understanding of peace initiatives in inter-war years, (Conflict situations between nations and within nations to determine a course for attaining global peace before, during and after the World War-I).

She said that inter-war years 1918 and 1938-39, saw the reasons for the outbreak of the First World War. It was a rivalry among European nations, armament race, and secret treaty obligations. The impact of the war was colossal loss of the lives of civilians and the military. Issues that emerged from the churning were world peace, protection of democracy, security and avoidance of future wars and early resolution of conflicts.

Fourteen points of Woodrow Wilson, the 28th US president, that were part of Paris peace conference and the treaty of Versailles were the basis of the creation of League of Nations. Peace pacts signed in 1925-39 did bear result as about 25 anti-war organisations came up in England alone. However, peace initiatives of these organisations failed because they had no real influence over people. She concluded by saying that peace was still elusive.

Prof. Mirza Asmer Beg of the department of political science, Aligarh Muslim University, focused on aspirational emergence and disappointing decline of league of nations: causes for supersession of peace perspectives leading to the horrendous hell of the World War-II. He observed that influenced by Immanuel Kant, Woodrow Wilson brought out points for halting future wars. League of Nations failed because of a race for hegemony between the US and the USSR. All the weaknesses were, however, rectified by the UNO. Today some people masquerading as democratic leaders were dominating the world. He noted that since the countries felt that the League of Nations could not force peace, Hitler exploited the situation. Dominance theory was ruling today's international politics, he added.

In his presidential remarks, Prof. Z.M. Khan, said that efforts for peace after the World War-II gained prominence and the theory of realism emerged in political relations. Decolonisation and restoration of democracy dominated the anti-war climate. Universities too came up with active ideas of peace. Role of civil society had become more important in today's context. This was necessary because civil society was suffering more than the armed forces. Currently, the world faced new kind of problems as non-state actors abetted by the state were creating trouble, he added.

Technical Session-II

The second technical session focused on UN redefining responsibilities of nation-states and global community for contributing to promotion of peace process. The session was chaired by Prof. Dato Dr. Zaleha Kamaruddin. Prof. Sanjay Singh, Director, Sunder Deep College of Law, Ghaziabad was the first speaker who

spoke on United Nations peace paradigm of responsibilities for nation-states for attaining durable international cooperation for peace as a commitment to world community.

He said that six organs of the UN were created to check the outbreak of a third world war. All the six specialised organs were playing an important role in their respective areas. He said that every member of the world body had to rise above hypocrisy. A matter of concern was the possession of weapons of mass destruction, (WMD) among the members of the Security Council. Tension among several countries had imperilled international peace and cooperation. There was a need for humanitarian intervention in areas where a large population suffered due to war or internal strife, and norms for non-intervention in the affairs of other countries be laid. In this connection, recommendations of Kofi Annan Committee should be put into practice, he added.

Dr. Asad Malik, associate professor, faculty of law, Jamia Millia Islamia, centered his talk on responsibilities of nation-states for promoting within their jurisdictions, societies with peace, harmony, justice and fair order as envisaged by universal instruments. He said that nation-states demonstrated unity during Covid-19. Countries with robust structures successfully coped with the pandemic and harmony among nations was appreciated. Nation-states owed an obligation to respect human rights and enter into economic cooperation. International instruments, like UN Charter of Human Rights and Preamble to UN Charter spoke of the liability of nations to work towards peace and cooperation.

Several countries, including India, adopted principles enunciated in the UN charter after 1948. He observed that states had an obligation to protect human rights in domestic sphere. Municipal laws could not be used to defeat the purpose of international law. India was in the forefront of respecting international law related to human rights. Communal harmony was the hallmark of a healthy democracy. India had good laws and judicial pronouncements to promote justice and human rights, he added.

Dr. Khalid Wasim Hassan, coordinator, department of political science and governance, Central University, Ganderbal, Kashmir, threw light on effectiveness and relevance of values adopted under the universal declaration of human rights for promotion of global peace with dignity. Presenting his point of view about the topic, he said that lack of collective legitimisation of the League of Nations by states led to its failure to prevent future conflicts. But the mechanism adopted by the states following the Universal Declaration of Human Rights gave credence to the protection of human rights.

Imagining a society without human rights enshrined in the UDHR had become impossible. A common understanding of human rights and their protection emerged slowly. Referring to their legal status and universality, he said that from being aspirational, they reached the point of a legal binary. Then there was the ratification of Conventions by the nation-states. He ended by saying that the discourse of human rights was first symptomatic of social and political configuration.

Prof. P. Puneeth, associate professor, School of International Studies, JNU, focused on principal universal foundation for international peace envisaged by international convention on Civil and political rights, 1966, and other multiple UN declarations and conventions really being followed to attain global peace. He said that in 2020, global index of peace fell. Global peace was of two types: negative peace and positive peace. Article 55 of the UN Charter spoke of universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion. He observed that human rights could be protected only by the rule of law. Economic and social rights were foundations of global peace. All human rights were universal and all instruments revolved around human rights. He said that focus on strengthening democracy was a must for securing human rights.

Technical Session-III

Chaired by Prof. M. Afzal Wani, the third technical session focused on universal foundations for peace and their adoption through

United Nations resolutions, treaties, declarations and conventions. Prof. Rajpurohit, dean and director, faculty of law, Rajasthan University, and Dr. Abhishek, asstt. professor in the same faculty, in a joint paper spoke on basic universal data for advancement of international and social peace through denouncement of subjugation and authoritarianism under International Covenant on Economic, Social and Cultural Rights, 1966.

They held that authoritarianism was an unfair exercise of political power with support from armed forces and bureaucracy. Subjugation of the citizenry was the result of authoritarianism, which denied cultural rights to minorities. Subjugation of minorities in some countries was a part of their policy. Denial of education to minorities in India also fell in that category, they said.

Prof. Anuj Kumar Vaksha from USLLS, GGSIP University, explained the prospective relevance of UNSDGs-Goal-6, global peace. Dr. Naresh Vats of the University School of Humanities and Social Sciences, GGSIP University, gave his presentation on prospective relevance of UN SDGs-Goal10: “reduce inequality and women’s empowerment for promotion of global peace”. The last speaker of the session was Batool Zahoor Qazi, lecturer, faculty of Shariah and Law, the Maldives National University, Maldives, touched upon prospective relevance of UN SDGs-Goal 5: “gender equality and women’s empowerment for promotion of global peace”.

January, 24, 2021, Second Day

Technical Session-IV

The fourth technical session centered on the relevance of UN Sustainable Development Goals to peace prospect of their achievement. Prof. M. Afzal Wani chaired the session.

Dr. Nafees Ahmad from South Asian University was the first speaker of the session who spoke on the principal universal foundations for across-the-board just treatment of refugees to attain global peace. He said that peace had many dimensions, ramifications and dynamics.

Refugees sought refuge in other geo-political areas away from their roots. Sometimes they were treated as a liability and not asset to the world. They were confronted and not allowed to be a part of development. Refugee crisis had been exacerbated as they were persecuted and denied rights. Refugees could not get refuge every time as was evident from the Chechen, Rohingya and Congo refugees. He said that the New York declaration decolonised those who were displaced, or forcibly displaced.

The number of refugees today stood at 17 million. In an environment in which peace became a mirage, refugees were the voices of peace. He concluded by saying that the language of human rights provided the vocabulary of peace.

While Dr. Iqbal Ahmad of National Law University, Delhi, focused on the need for the effectiveness of prosecutorial response to human trafficking for promotion of social and global calm, Dr. Vandana Singh, University School of Law and Legal Studies, GGS IP University, Delhi, spoke on economy and world peace. Dr. Parikshet Sirohi from the faculty of law, Delhi University, touched upon prospective relevance of UN sustainable Development Goal about ending poverty in all its forms for attaining global peace.

He was followed by Dr Zubair Ahmad Khan of the University School of Law and Legal Studies, GGSIP University, who presented his paper on protection of biological diversity and forests to sustain a peaceful world. The last speaker of the session was Rubina Sultana, research scholar, department of philosophy, Jadavpur University, Kolkata, who spoke on the participation of women to secure global peace: an analysis of the role of sustainable development goals.

Valedictory Session

The valedictory session was presided over by Prof. Z.M. Khan. Prof. Afzal Wani presented a brief on the proceedings of the conference. In his special address, Attorney-at-Law and President's Counsel, Sri Lanka, Dr. Jayampathy Wickramaratne, explained the importance of human rights in international context. He said that human rights were

a part of religious and cultural heritage. These were recognised in Buddhist, Hindu and Islamic scriptures. These were mentioned in Hindu Shastras, Hebrew religious texts and the Christian Bible. UN Charter began with the words like, “We the people, We the states...”

The Universal Declaration of Human Rights was drafted by delegates with different legal backgrounds. Several treaties were signed in this connection and human rights were sought to be respected everywhere. It was based on universality vs. cultural relativism as the former was not imperialism. He observed that human rights were not imposed but their violation threatened global peace. Then there was an international dimension of human rights violation as a result of which the number of refugees in Syria and Myanmar had reached 6 million.

Besides, there were several thousand Tamil refugees in India. He held that ethnic conflicts were also a major threat to global peace as they arose out of the denial of rights to the numerically smaller communities. While emphasising the need for a regional mechanism to address the issue, he said that sovereignty could not be a defence against violations of human rights.

In his valedictory address, Ford Foundation, USA, scholar, Dr. Azim A Khan Sherwani, held that the US was the first country to recognise healthcare. The country spent most on healthcare. He said that capitalism being practised in the Scandinavian countries was a model. The world economy put together stood at around 90 trillion dollars today but the goal of sustainability could not be achieved without global peace. He pleaded for finding a common ground where all were engaged to achieve this goal. Three words—justice, peace and sustainability—should harmonise the world. Technologies and artificial intelligence should be used to promote these ideas. He called for having a platform to support peace.

In his presidential remarks, Prof. Z.M. Khan reiterated IOS commitment to peace and harmony as it had been doing this for a long time. He said that the violence was taking new forms and should be looked in that perspective. Of late, this had become a tool to turn

public opinion. Civilians were victims of violence of every sort. He urged the civil society to take up the issue and come up with a solution. International community was gradually realising the need for peace. He concluded by calling upon all religions to come forward to ensure that peace in the world became a reality.

The conference ended with a vote of thanks extended by the assistant secretary general of the IOS, Prof. Hasina Hashia.

The occasion was also marked by unanimous adoption of a 9–point resolution which read:

1. Pursuant to loss and devastation of over a 100 million lives in the First and Second World Wars, causing emergence of inane parochial leanings of self-aggrandisement, unimaginable damage to natural earnestness of human desire to live in the world with variety and harmony, the human community is duty bound to repeatedly look into the reasons for intra and inter-state conflicts causing such horrendous tragedies in the form of merciless killings of military and civilian people, large-scale rape and murder of women, butchery of children, destruction of environment, creation of acrimony and hatred, economic imbalances, political supremacies, undermining of processes of justice and genocide coupled with unconscionable destruction of fauna and flora resulting in smacking of mother nature and visible environment.
2. Harnessing false instincts and shallow, whimsical aspirations lead with the motivated arousing of frivolous political, social and economic conflicts pushing human groups to extremes and positions of extermination must be wisely managed through cooperation and coordination with the human spirit of survival of all, rather than political gimmicks and malice, following a cosmopolitan worldview with proper identification of principal foundations for global peace escaping unreal suasions of genetic differences.

3. Institutional mechanisms developed by the global community through United Nations after the world wars, national independent judicial systems, promotional initiatives through welfare agencies, availing of opportunities for redress of grievance under national and international systems should be conscientiously respected to build peace and promote harmony for better future of humanity at home and abroad for all containing the contemporary violence to all individual and group members of humanity with transparent, effective and timely action.
4. Culture of ease of business and employment, reassertion and self-determination, resettlement and relocation, intellectual endeavours and social aspirational reorientations should be facilitated with enormously required international understanding as in case of India envisaged by Article 51 of the Constitution of India, 1950.
5. Development of societies with social peace and spirit of community service as a hallmark, following standards stated in international instruments like Declaration on the Essentials of Peace, 1949 and Declaration on the Preparation of Societies for Life in Peace, 1978, should be ensured addressing needs of the people which recognise the preminent and paramount position of human dignity and other human rights as important essentials of peace, to enable people to live in peace.
6. Appreciating oneness of humanity, the UN and all Nation States should overtly stand for values of human rights, promotion of human dignity, equality and mutual respect eliminating the evil torturous situations faced by the world in the form of child exploitation, human trafficking, rape of women, racial forms of discrimination, statelessness, starvation, illiteracy, bonded labour, exploitative commercial engagements and any other form of inhuman practices.

7. Sufficient literacy and campaigning by international agencies and Nation States should be carried out across the globe against extremism, terrorism, hate, exclusion by any public functionary or private individual in any context, more by dispelling reactionaries and promotion of right thinking and expression.
8. The literature in world cultures should be presented in its true peace context and accommodative contours.
9. IOS should take initiatives with UN agencies and Nation States to promote academic engagements with studies in peace and harmony, within societies and internationally.

The resolutions were read out by Prof. Afzal Wani.

**Two-day IOS on-line International Conference on Personality
and Contribution of Dr. Mohammad Natsir as a National and
International Thought Leader in 20th Century
(February 6-7, 2021)**

New Delhi: A two-day international conference on Personality and Contribution of Dr. Mohammad Natsir as a national and international thought leader in 20th century was organised by the Institute of Objective Studies on February 6-7, 2021, in collaboration with Universitas Ibn Khaldun Bogor (Indonesia), International Institute of Islamic Thought, and Indonesian Da'wah Council.

The inaugural session began with the recitation of a verse from the Quran by Hafiz Athar Husain Nadwi.

In his introductory remarks, the Secretary General IOS, Prof. Z.M. Khan, said that the institute was a non-political and non-profit organisation engaged in research on topical issues pertaining to depressed and deprived sections of society, particularly Indian Muslims. A number of suggestions relating to projects from within the country and outside were being constantly received, but due to lack of resources, it was not possible to consider all of them.

Several universities and institutions of higher learning had given projects to the IOS. Explaining the procedure followed by the institute in approving projects, he said that topics were decided by it and then allotted to researchers. The institute also published books on various subjects. So far, more than 500 titles had come out. Besides, translation of important books into English, Arabic, Urdu and Hindi was another area in which the institute worked. Surveys on various issues were conducted to determine the core of the problem. One such survey was undertaken to study the trend of response of youngsters to elections in the country.

The institute also awarded a limited number of scholarships to candidates pursuing doctoral research on themes preferred by it. Lectures and seminars, both national and international, were regularly organised. A series of Ibn Khaldun lectures had been started under

which several lectures had taken place. The institute had five chapters in different parts of the country which catered to regional aspirations, Prof. Khan said. Two awards—Shah Waliullah Award and Lifetime Achievement Award – had been instituted to honour scholars and eminent personalities in recognition of their exceptional contribution to related fields. Regular publications, like print journals and e-magazines was another feature of the activities of the institute. It also published annual IOS calendar which contained relevant and updated data for use by researchers. The calendar had become popular due to its utility. In addition, IOS owned a full-fledged library at its headquarters that catered to scholars, he added.

In his welcome address, vice-director, Postgraduate School, Ibn Khaldun University, Bogor, Indonesia, Dr. Hendri Tanjung, said that the conference was being attended by around 300 participants from more than 30 universities across the continent and 100 institutions across Indonesia. The major outcomes that one expected from the conference was recognition to the contribution of Dr. Mohammad Natsir as an Islamic leader, nationally and internationally. Referring to Bogor Ibn Khaldun University (UIKA), he said that it was the oldest private university located in Bogor city, West Java, Indonesia.

Inspired by an all-time great scholar, Ibn Khaldun, the university was named after him. The university had six faculties, one graduate school and 23 study programmes with around 7,500 students. The university had many lecturers and special alumni who were currently serving as public leaders at the local, national and international levels. Based on the vision, mission and also the motto (faith, knowledge and good deeds) UIKA had produced quality graduates in various fields.

The university was committed to conducting innovative research to create reciprocal collaboration that benefited society. Currently, UIKA collaborated with several foreign universities located in several countries such as Malaysia, Singapore, Thailand, Taiwan, Qatar, Jordan, Sri Lanka, Brunei, Darussalam, South Korea, Hong Kong, the Philippines and Russia, he added.

A profile of Dr. M. Natsir was presented by his son, Mr. Ahmad Fauzie Natsir, who was the former trade attache at Indonesian embassy at Riyadh, KSA. He said that after moving to Bandung from his hometown Solok, West Sumatra for higher education, Dr. Natsir studied Islamic doctrine extensively. His first article was published in 1929, and during the 1930s, he wrote several Islamic-themed papers. He entered politics in mid-1930s, rising through the ranks of Islamic parties. On September 25, 1950, he was chosen as prime minister, a term which he held till April 26, 1951. After his tenure as prime minister, he became increasingly vocal about Islamic role in Indonesia for which he was eventually arrested. He observed that Natsir wrote extensively on Islam, totaling 45 books and hundreds of articles.

He viewed Islam as an intrinsic part of Indonesian culture and was disappointed with the Sukarno and Suharto governments' handling of religion. He was given three honorary doctorates during his lifetime, one from Lebanon and two from Malaysia. On November 10, 2008, Natsir was honoured as a national hero of Indonesia. Natsir began to associate himself with well-known scholars like Agus Salim, and in the mid-1930s, he took Salim's place in discussing the relationship between Islam and the state.

In 1938, he enrolled as a member of Partai Islam Indonesia (Indonesian Islamic Party), and became the chairman of the Bandung branch from 1940 to 1942. During the Japanese occupation, he joined Majelis Islam A'la Indonesia and became one of its chairmen from 1945 until the party was banned. After the proclamation of Indonesian independence, he became a central Indonesian national committee member. Commenting on Dr. Natsir's political views, he said that his politics was religiously motivated with ayat 56 of the *Adb-Dhariyat* as justification. His goal as a politician was to ensure that the Muslim community lived in a state where Islamic teachings applied in the life of individual, society and the state of the Republic of Indonesia. He also fought for human rights and the modernisation of islam, Fauzie Natsir added.

In his inaugural address, Dato Seri Dr. Anwar Ibrahim, former deputy prime minister of Malaysia, observed that Mohammad Natsir was a scholar activist with the knowledge of five or more languages. Besides his impeccable Bahasa Indonesia as his mother tongue, he also understood and spoke Arabic, Dutch, English and French. He became the de facto leader of Masyumi, Indonesia's largest Islamic based political party, together with Agus Salim, and from 1949 onwards, Natsir became the most prominent member of the party leadership. In his celebrated three-volume *Capita Selecta* written between 1936 and 1960, he articulated his thoughts on a wide array of topics. Astonishingly, he discussed nearly every pressing issue in Islamic thought of his time, from language to history, from politics to arts, providing critique and offering his stance on various issues. Natsir believed that despite the difficult nature of philosophy to be understood by public at large, it was the responsibility of the enlightened to help imbue philosophy in their thought by using the right means in accordance with the level of public comprehension. He eulogised Ibn Tufayl for his remarkable work in conveying philosophical ideas via a hypothetical tale of outstanding composition, he remarked.

Anwar Ibrahim held that Natsir did not despise Pancasila as something purely secular which deserved revocation, but instead looking at it as something that could be regarded as Islamic by means of interpretation and implementation. Natsir believed that it was not wise to force the contemporary society to accept a custom that no longer suited the context of their milieu. He believed that the intellectual foundation of any nation in the world that determined its progress and regress in history lay within its own mother tongue.

Native language, he said, formed an essential part of the nation's culture and identity. Language and thought were inseparable from each other as they were structurally intertwined. Natsir affirmed that language must constantly develop abreast of new knowledge and information. He used to say, "If an art is devoid of the goal to execute the ideas it contains, then such art loses its *raison d'être*, for an art is built upon the premise that any explicit suggestion or order might not be as effective as when it is implicit".

Natsir stressed the importance of identifying the idea behind an art and not merely looking at the impact. In 1957, Sukarno tabled his idea with the aim of establishing an all-encompassing national house and a unity cabinet which would host members from all political parties as well as representatives from groups of scholars, artisans, farmers and fishermen. This drew criticism from Natsir, who questioned the basis for such action. He cited other nations with “differences in the levels of thought and culture” from the western society such as Pakistan, India and Burma, and noted that they still retained their parliamentary democracy, Anwar Ibrahim added.

In his keynote address Prof. M. Kamal Hassan, former rector, IIU, Malaysia and advisor CENTRIS, Malaysia, described Natsir as a prominent leader of Islam with a revolutionary bent of mind. Fondly addressed as Pak (father) by Muslims and non-Muslims alike, he became the most prominent leader of Islamic politics after the Second World War and became the first prime minister of a united, post-revolutionary Indonesia in August 1950. By 1949 he was the head of the Islamic party, called Masyermi, which brought together several Islamic political parties under one umbrella. An intellectual with a strong Islamic foundation, Mohammad Natsir rapidly reached the top of political prominence within a short revolutionary period. In the 1930s, Natsir became a leading Islamic polemicist who criticised not only the Western misconception of Islam, but also the domestic propagation of secular nationalism, whose greatest protagonist at the time was Sukarno when he was a young nationalist intellectual and when he became the first president of the republic of Indonesia, he observed.

Prof. Hassan held that Natsir was an exceptionally intelligent, knowledgeable, wise and a compassionate Muslim leader, not only in politics and international relations, but also in Islamic thought, Islamic education, inter-religious dialogue, national and community development and Islamic propagation (Da’wah). He was loved by the people as well as by his colleagues, and highly respected by friends and foes alike. He was among the last of the religio-political giants in Muslim South-east Asia and was much sought after by the Muslim

intelligentsia and Islamic youth leaders in the region, particularly in Malaysia.

He said that realising the negative social and political consequences of the educational and cultural dichotomy of traditionalist and conservative education on the one hand and that of modern secular education on the Muslim community on the other, Natsir felt the need to work towards the integration and unification of the two opposing systems, so that eventually there would emerge the “ulama-intellectual and the “intellectual-ulama” ideal types in Indonesian society. He observed that the superior intellectual quality of Natsir contributed significantly to the advancement of discourse of Islamic renewal and reform in 20th century Indonesia.

In emphasising the necessity of reform, he made sure that it was a genuine Islamic discourse. Modern Muslim history has shown that there had been modernists, secularists or deviants who had used the labels of *Islah* (reform) and *Tajdid* (renewal) as a camouflage for deviant ideas or programmes. He concluded by saying that Mohammad Natsir had bequeathed to the younger generation of Muslims in Indonesia and the Malay-Indonesian world his invaluable intellectual-ethnic legacy which was still relevant to the pluralistic, multi-religious and cosmopolitan Indonesian and Malaysian societies.

Speaking as the guest of honour, Dr. Jusuf Kalla, former vice-president of the Republic of Indonesia, observed that he was a Muslim who had influence over intellectuals as he himself was an intellectual. He had passed only high school, but his broad vision brought him closer to many intellectuals of the world. He was a combination of so many things but his politics of Da’wah catapulted him to fame. His role in the setting up of a federal system in 1950 was still remembered by the people of Indonesia. He described Natsir as a leader, intellectual and administrator.

Another guest of honour, Dr. Fadli Zon, chairman of the House Committee for Inter-Parliamentary Cooperation, the House of Representatives of the Republic of Indonesia, held that Mohammad Natsir was renowned as a Muslim statesman, an *a’alim*, a scholar and

one of the most respected politicians in the Islamic world of the 20th century. As a political thinker, his profile was multi-faceted, his view on Islam holistic and honest. Natsir's name was widely recognised in the international community, especially in the Islamic world. His political career did not happen overnight. He had always been in touch with senior activists during the Japanese occupation, both the Islamists and nationalists.

He said that the growth of ideology-based politics in the post-independence era encouraged Natsir to promote Islamic ideology through constitutional platforms. As a Muslim scholar, Natsir was well-versed in a vast range of discourse, be it rooted in Islamic ideology, eastern scholarly tradition or western schools of thought. His access to knowledge was enabled by him being a polyglot, skilled in English, Arabic, Dutch, French and Latin. It was this kind of aptitude that made Natsir both an Islamic thinker and democrat. Instead of rejecting democracy, Natsir believed that it had to be aligned with the principles of Islam.

Political parties and the state, according to him, were the instruments through which Islamic values were upheld. The existence of these institutions was the means for their actors to devote themselves to Islam by way of elevating welfare of the people. Referring to Natsir's attitude towards the Pancasila (the five principles), he said that this was often questioned by some groups because the views expressed by him were considered contradictory. When Masyumi was founded on November 7, 1945, until the 1955 general elections, Natsir was a supporter of Pancasila. However, from 1956 to 1961, Natsir supported Islam as the state ideology. For his contribution, Natsir was remembered as one of the founding fathers of Indonesia's political development, he added.

In his words of appreciation, chairman, Institute of Objective Studies, Dr. M. Manzoor Alam, observed that the idea behind organising the international conference was to acquaint the young generation with the contribution of Mohammad Natsir to Islamic thought and inculcate in them an urge to protect and promote Islamic heritage. He stressed the need for remembering the

contribution of great leaders of knowledge. This could happen only by means of education, cooperation, communication and collaboration. He suggested that the Ibn Khaldun University and the government of Indonesia should consider the proposal to get all the works of Mohammad Natsir translated into English, as well as all the 18 Indian languages recognised by the Constitution. The IOS too had taken a lead in publishing books on various subjects, and so far more than 500 titles had been published, he pointed out.

In his presidential address, Dr. Ahmad Totonji, vice president, International Institute of Islamic Thought, USA, said that Dr. Natsir achieved whatever he wished. Indonesian people could not be forgotten for remembering the scholar of their own. He acknowledged having learnt a lot from Natsir. Later, the text of his speech was read out by his son, Mohammad Totonji, who said that his father met Natsir in Makkah in 1965 when the latter was on a visit to the holy city. Natsir stood for Islamic solidarity and did everything possible for the people of Indonesia as the first prime minister after independence. He said that he was seeing the words of Natsir come true after several years. He was closely associated with the Islamic Federation of World Muslim students' organisations. In 1970, he visited Indonesia and saw for himself the work being done in various fields. He said that Mohammad Siddik managed the affairs of IIIT in Indonesia.

The inaugural session was attended by more than 300 scholars and researchers from Indonesia, India, the US and the Middle-East. While Prof. M. Afzal Wani vice-chairman of IOS, conducted the proceedings, Prof. Ishtiyaque Danish, the finance secretary, proposed a vote of thanks.

Technical Session-I

Chaired by Prof. M. Afzal Wani, the first technical session was devoted to the theme "Dr. Natsir's Personal Life, Early Days and Emergence as a National Leader". Dr. Mohammad Siddik, vice-president, Laznas Dewan *Da'wah* Islamiah, Indonesia, was the first speaker who held that Mohammad Natsir promoted Islamic social

values. Natsir's interest and passion about issues regarding Islam and Muslims had grown bigger. One thing that caught his attention was the fact that young Muslims, who were also students like him, did not feel proud of their identity as Muslims. He wanted them to regain respect for their religion and gradually start to practise it. Despite his limited knowledge, Natsir dedicated himself to become Islamic-subjects teacher in MULO and Sekolah Guru in Lembang, he said.

Nirwan Syafrin, senior lecturer, Ibn Khaldun University, touched upon different aspects of his life.

Prof. Haseena Hashia former professor of geography, Jamia Millia Islamia and asstt. secretary general, IOS, observed that Natsir's ideas on state, democracy and Islamic system of governance were based on Shariah. He was of the view that the ruler must be acknowledged by the ruled. He held that Islam gave people the right to demolish autocracy. All the powers in a democracy were given to the consultative assembly.

She observed their Islam is neither a hundred per cent democracy nor a hundred per cent autocracy. Natsir combined both. His views were against reconciliation as the system did not allow it. But he explained how the synthesis could be worked out, she added.

Prof. M. Faheem Akhtar Nadwi, professor and head deptt. of Islamic Studies, Maulana Azad National Urdu University, Hyderabad, spoke on Prime Minister Mohammad Natsir: Mujahid-e-Azaadi wa Mujahide-e-Islam. He said that Natsir was like a star that rose in mid-twentieth century. He was well-recognised by the world of Islam. He belonged to a religious family and his father was an a'alim. In 1920, he headed a youth Muslim organisation. He actively participated in the freedom struggle and became the country's prime minister for a short period, Prof. Nadwi said.

Dr. Kamal Ashraf Qasmi, asstt. professor and former HoD, Aliah University, Kolkata spoke on Dr. Mohammad Natsir: Life and Contributions.

Technical Session-II

The second technical session focused on Dr. Natsir's contribution to nation building and his understanding of international political scenario. Dr. Hendri Tanjung was in the chair. Dr. Fadli Zon, who initiated the discussion, said that according to Natsir, islam and state were inseparable. Referring to President Sukarno's speech, he said that pancasila based on five principles, was the state ideology supported by Natsir. It had two foundations—moral and political. But in 1957 it was rejected as a state policy. However, pancasila was a unifying force and was based on Islamic principles. He pointed out that Natsir broke from political streams to support Islam as state ideology.

Dr. Sajad Ahmad Padday, a scholar of Islamic Studies who got his PhD from Aligarh Muslim University, presented his paper on fervour of nation-building in the personalities of Dr. Mohammad Natsir and Abul Kalam Azad. He said that both Natsir and Maulana Azad supported religious and secular knowledge. Natsir favoured a combination of western and Islamic education. Both Natsir and Azad faced the colonial era and became key figures in their countries after independence. He said that both of them were well-versed in western and Islamic education.

The third paper presenter was Ms. Kehkashan Naz, research scholar, department of Islamic Studies, AMU, who talked about Dr. Mohammad Natsir's perspective on islamic culture in Indonesia. She said that Natsir was a scholar and social reformer. As president of Muslim Youth Association, he used to make motivational speeches. An author of about 45 books, he wrote on the scientific evaluation of Islam, she observed.

The last speaker was Dr. H. M. Hidayat Nur Wahid, vice-chairman of People's Consultative Assembly, Republic of Indonesia, who focused on Dr. M. Natsir's contribution to nation-building. He held that Natsir's contribution was recognised at the national level, and it also influenced relations between nations in 1950s. He embodied the ideals of nationality and humanity. He applied Islamic idealism as

political rhetoric and character in personal, social and state life. He said that the difference in political views between Natsir and Suharto did not prevent Natsir from contributing to saving Indonesia from political and economic crisis at the start of the New Order.

Technical Session-III

Devoted to Dr. Natsir's thought and responses to contemporary national and international influences, the third technical session was presided over by Prof. Ishtiyaque Danish. Dr. Sohirin Muhammad Solihin, professor, department of Quran and Sunnah Studies, IIU, Malaysia, who presented the first paper, said that Natsir never did Islamic Studies in a formal way, nor did he ever reach university for higher study. Natsir's intellectual vision grew up through western educational system during the Dutch colonial rule. He learnt about Islam when he joined Muslim youth activities in Bandung under tutorial guidance of Ahmad Hassan. He observed that in Islamic philosophy, Natsir involved himself in studying the view of Ibn Miskaweh, Imam Ghazali, Ibn Sina, Ibn Khaldun, al-Farabi and al-Kindi. He was not in favour of condemning the west as both east and the west belonged to Allah. In this connection, he used to quote the Quran. In many respects, Natsir favoured civilisational dialogue across religious boundaries, he added.

Prof. Hamid Naseem Rafiabadi, former dean, School of Media Studies, head, department of Religious Studies, Central University of Kashmir, made some reflections on the thought of Dr. Mohammad Natsir. He said that Natsir had a great influence over the young generation. He knew German and Arabic, and addressed Indonesians in their own language. He envisioned political Islam and expounded the concept of Da'wah. He observed that Natsir was a committed Muslim who rejected Mustafa Kemal Ataturk's vision of Islam. Being a practical person, he presented socialistic Islam by vouching for western education without compromising on the Quran and Sunnah. Prof. Rafiabadi described him as a guide to the *ummah* and a cultural thinker.

Dr Abdul Majid Khan, associate professor of Islamic Studies, AMU, touched upon Dr. Mohammad Natsir's ideas on Islam and politics. He said that during Dutch occupation of Indonesia, Christians used to forcibly compel Muslims to accept Christianity. Thoughts of the *ummah* were restricted and they did not allowed Muslims to meet other Muslims from outside Indonesia. He believed that the nature of a nation-state should not be deficient of human welfare. Natsir wanted harmony of western thought, like freedom, peace and justice with Islam, he said.

Umair Azmi, staff engineer, R&D, Tajas Network Ltd., Gurgaon, presented his paper on Mohammad Natsir: engagement across boundaries. He said that the life of Mohammad Natsir could be divided into two phases with the dividing line being his participation in the PRRI rebellion. The latter phase, with political engagement being restricted by the Indonesian state, was noted for his participation in Da'wah activities and engagement with transnational Islamic organisations. According to Natsir, the philosophy of separation of religion from the state in its aftermath led to the divorce of spiritual and material values in life with unchecked materialism resulting in destruction.

On the Islamic state, Natsir approved Dr. Mohammad Iqbal's ideas. His interest in Iqbal was clear from his speech on the occasion of Iqbal Day, he pointed out.

Ms. Firdosa Akhtar, research scholar, department of Islamic Studies, AMU, Aligarh, spoke on pancasila and Islam: a study of Mohammad Natsir. She said that during the Japanese occupation, Natsir served as chief of bureau of Islamic education in Bandung. After independence of Indonesia, he was appointed as minister of information in the first cabinet of Indonesia by Sukarno. He visited different countries such as Pakistan in 1952, Egypt, Saudi Arabia, Iraq, Iran, Lebanon, Turkey, Syria in 1956, Jordan, India and Burma, and presented his ideas regarding peace and justice. She observed that Natsir was a devoted Muslim and intellectual who strived to live for the cause of Islam and his countrymen.

Technical Session-IV

Devoted to the theme Dr. Natsir's contribution to promotion of islamic thinking and his thoughts and methodology relevance to modern globalising world. The session was chaired by Dr. Sohirin Muhammad Solihin.

Prof. Syed Jamaluddin, director, historical research projects, IOS and former professor of history, JMI, was the first speaker who focused on tracing how the holy Quran inspired Mohammad Natsir. He said that Mohammad Natsir was best known for his writings on Islam and his insistence that Islam must guide the republic of Indonesia. He was of the opinion that religion and state could not be separated. The holy Quran guided Mohammad Natsir in all phases of his life. He infused Quranic spirit in his educational philosophy which was an important constituent of his political thought. He said that Natsir was concerned with the need to develop the Muslim *ummah* in Indonesia through education. In Natsir's view, there was an urgent need to provide simple reading material on Islam for the young intelligentsia in Indonesia in the form of pocket books, so that new generation of intellectuals could study the teachings of Islam in depth. As a national leader and an intellectual of great class, Mohammad Natsir's role in building the republic of Indonesia and bringing islamic political ideas in the forefront would always be remembered, he added.

Mr. Hilman Fikri Azman, executive secretary to chairman, International Institute of Islamic Thought, Malaysia, presented his paper on Mohammad Natsir (1908-1993) Disentangling Issues in Contemporary Islamic Thought while Dr. Aijaz Ahmad, assistant professor, department of Islamic Studies, Aligarh Muslim University, spoke on A Study on the Islamic Educational Thought of Mohammad Natsir.

Dr. Sumaiya Ahmad, assistant professor, department of Islamic Studies, Aliah University, Kolkata, presented her paper on Dr. Muhammad Natsir's contribution to Islamic literary works. She described Dr. Natsir as an outstanding scholar with resilient thought. He focused on politics and teachings of Islam. His book on law of

Da'wah was a significant work. He defined the relation between religion and the state. She said that Natsir always called for respecting and fulfilling democratic aspirations.

Ms. Sana Naaz, research scholar, department of Sunni Theology, AMU, who presented her paper on *Dr. Mohammad Natsir: Islami Fikr-e-Taleem aur Marboot Nezam-e-Taleem*. She observed that Dr. Natsir was of the view that education must be based on divine value system. There was no point in rejecting western education. Universal values that Islam promoted should be highlighted. She focused on Islamic value system of knowledge. Religious and secular knowledge should be combined. Natsir wanted that whatever was good in western education should be adopted, she concluded.

In his presidential remarks, Dr. Sohirin Muhammad Solihin said that the ideas of Mohammad Natsir should be restructured in curriculum for the benefit of the new generations. *Capita Selecta* in three volumes should be translated into other languages. He said that inter-university cooperation should be strengthened for intellectual discourse on Natsir, who was a universalist and stood for justice and truth. He was neither western nor eastern, Dr. Sohrin observed.

Valedictory Session

In his special address, Dr. Hendri Tanjung said that Dr. Natsir's contribution to education, art and culture would continue to dominate Indonesian discourse. His personality should be evaluated as his name would always remain alive in history. He expressed the confidence that the collaboration with the IOS in matters of research and dissemination of ideas would continue in future as well.

In his valedictory speech, Prof. M. Afzal Wani stressed that while following one methodology other methodologies should also be devised. He said that Dr. Natsir should be analysed with reference to sufferings and the ideas to protect one's society. Dr. Natsir was emerging as an author at the age of 22. He was the best guide in the present situation. He wrote on Sirah and Islam. He responded to suffering and subjugation, and rejected methodologies which had no

concern for contemporary times. Dr. Natsir worked for the consolidation and unification of Indonesia for the welfare of his people. He was a man, thinker and philosopher in his own right. Despite poverty, he moved forward and became a role model. Prof. Wani described him as a hero of humanity. He was a politician not by option and saw things as they were. Prof. Wani concluded by saying that there was Islamic knowledge or responses to it; there was no other knowledge than this.

In his presidential address, Dr. M. Manzoor Alam, called Dr. Natsir an intellectual giant. His deeds conformed to the Sunnah of the Prophet (PBUH). He was practical in approach and action. Underlining the importance of knowledge, Dr. Alam said that it was the lost treasure of Muslims. knowledge should be crystallised, analysed and then presented.

Emphasizing the significance of Tawhid, unity of universal knowledge and humanity, he said that peace was the source of knowledge which should be pursued. Peace was also the source of power and progress and every human being should work for peace. Peace was a powerful instrument to achieve positive goals.

He observed that since peace generated positive thinking, powerful nations were trying to destroy it. Dr. Natsir focused on knowledge as the idea of knowledge ruled the world. He said that knowledge had been promoted by Allah and His Prophet (PBUH). Stressing the need for collaboration in the field of knowledge, he said that the IOS had already taken a lead by holding national and international conferences. He called for analysing new issues by understanding the nature of change in global perspective. He urged researchers and knowledge leaders to face today's challenges and come out with solutions to problems concerning the unity of the universe and the issues of humanity. He also made a call for equality, unity of all, fraternity and justice. He ended by saying that ways should be found to join together on the points of the resolution passed on the occasion.

Prof. Ishtiyaque Danish read out the 5-point resolution, unanimously adopted by the participants. The resolution read:

The Institute of Objective Studies, New Delhi, Ibn Khaldun University Bogor, Indonesia, and International Institute of Islamic Thought, USA, organised a two-day online international conference on “Personality and Contribution of Dr. Mohammad Natsir as a national and international thought leader In 20th Century” on Saturday and Sunday, February 6-7, 2021.

The conference was attended by dignitaries and scholars from many nations, like, H. E. Dato Seri Dr. Anwar Ibrahim, former deputy prime minister of Malaysia, H. E. Dr. Jusuf Kalla, former vice president of Republic of Indonesia, Dr. Fadli Zon, chairman of the House Committee for Inter-Parliamentary Cooperation, House of Representatives of the Republic of Indonesia, Prof. M. Kamal Hassan, former rector, IIU, Malaysia and Advisor, CENTRIS, Malaysia, Dr. Ahmad Totonji, vice president, International Institute of Islamic Thought, USA, Dr. Hendri Tanjung, vice director, Postgraduate School, Ibn Khaldun University Bogor, Indonesia, Mr. Ahmad Fauzie Natsir, son of Dr. Mohammad Natsir, former trade attache at Indonesian embassy at Riyadh, KSA, Dr. Mohammad Siddik VC, Board of Trustees and former chairman, Dewan Da'wah Islamiyah, Indonesia, Dr. H. M. Hidayat Nur Wahid, vice-chairman of People's Consultative Assembly, Republic of Indonesia, Dr. Sohirin Muhammad Solihin, professor, department of Quran and Sunnah Studies, IIU, Malaysia etc.

The conference adopts the following resolutions:

1. In order to understand the real global political, social and economic situation in the world during the transition from colonialism to independence, studies should be conducted by universities, research institutions and scholars on prominent personalities and contributors like Dr. Mohammad Natsir to the process of changeover and reshaping of the world.

2. Their biographies, scholarly contributions and studies conducted on various thinkers of the times should be made available in other languages, particularly, in English, for access and benefit to all with a spirit of service to academics and information for general masses.
3. Appreciating the role he played in his times as a scholar and public functionary, a collection of selected works of Dr. Mohammad Natsir may be brought out by the Institute of Objective Studies, Ibn Khaldun University Bogor, Indonesia, International Institute of Islamic Thought, USA, and Dewan Da'wah Islamiyah, Indonesia, with support of other universities and research and cultural bodies, mainly from Indonesia.
4. The government of Indonesia may institute an award in the name of Dr. Mohammad Natsir to people for contributions towards promoting understanding of Indonesia's tolerant culture and Islam as role model for the better guidance of humanity the world over.
5. Notably with reference to his simplicity from school to rising to the position of prime minister and later an international leader, scholarships may be given in the name of Dr. Mohammad Natsir to students in various countries for advancing the intellectual prominence of Indonesia with Islamic thinking and scientific temperament.

The conference concluded with a formal vote of thanks by Prof. Hasina Hashia.

**IOS-Mesco 5 Day Winter School Programme
on Islamic Studies
(February 8 to 12, 2021)**

Hyderabad: A five-day winter school programme in Islamic Studies, organised by Muslim Educational Social and Cultural Organisation (MESCO) Hyderabad in collaboration with Institute of Objective Studies (IOS), New Delhi, was held from February 8th to 12th 2021 at MESCO Education Complex, Mustaidpura, Karwaan. The event was attended by over 100 students, faculty, teachers and other participants from MESCO Degree College, MESCO Junior College and MESCO School, Karwan.

The number of sessions conducted during the five-day programme was around 26, consisting of around three lectures a day scheduled after taking consent from all speakers as per their availability. It was for the first time that due to the pandemic the programme was conducted on a hybrid basis (both online and offline).

Inaugural Session

On 8th February 2021, the programme started with the inaugural session. The chief guest of the session was Mufakkir-e-Islam, Professor Dr. Syed Jahangir Sahab, head of department of Arabic Studies at English and Foreign Languages University (EFLU), Hyderabad, presided by Professor Z.M. Khan, Secretary General, Institute of Objective Studies, New Delhi.

The session started with *qirat* by Maulana Mohammad Hamed Hussain, the welcome address was by Dr. Saleha Firdous, principal MESCO Degree College, followed by introduction of IOS by Prof. Mohammad Masood Ahmed, director MESCO, MIMCS. The objective of the programme was explained by Dr. Fakhruddin Mohammed, honorary secretary and chairman MESCO.

A brief address by the chief guest, Professor Dr. Syed Jahangir Sahab, about the importance of the programme was to encourage students for inculcating the habit of reading the Quran, learning Arabic

language and Hadith for the right path, walking on which one can reach the heights of satisfaction and love for humanity. It was followed by presidential address by Professor Z.M. Khan, secretary general, IOS. In his address he welcomed this type of programme, which creates awareness about Islam and its dignity. The inaugural session concluded with *du'a* and national anthem.

Business Session 1

It started with the topic “Islam as faith and civilisation”. The speaker was Dr Faheem Akhtar Nadwi, Professor Islamic Studies, Maulana Azad National Urdu University. He highlighted the self-understanding of Islam and Islamic world and its significance. He talked about the Quran and Prophet Muhammad (PBUH) as the messenger of God. He emphasised the doctrine of belief, including prophecy and revelation. He talked about human nature, the Quranic view of men and women, the divine law of Islam, the spread of Islam outside the Arab and Persian world, up to the present day. He also highlighted the central pillars of Islam as well as the notion of holy war in the way of God.

Business Session 2

Dr. Fatima Parveen former HoD Urdu deptt., Osmania University, on "*Aqeeda, tanheed, risalat akhira*". She highlighted the issues related to the belief of Muslims in Islam. She said about the world hereafter the Prophet Muhammad (PBUH) taught us to tread on the righteous path and reach *akhira*, by offering *salat* on time and following Islamic tenets.

Day Two

Day two was divided into three business session followed by five lectures.

Business Session 1

In the first lecture by Dr. Syed Iftekhhar Hussain, HoD ALEEF, MESCO was on “Jama wa Tadween Quran”. He highlighted the idea

of compilation of the Quran originated when a great number of *sahaba* went in a battle during the rule of Hazrat Abu Bakar Siddique. Muslims won the battle. There were fewer casualties, but among those who embraced shahada, many were hafiz-e-Quran. Observing this, Hazrat Umar Farooq got worried, What if *huffaz* continued dying in large numbers. We would be soon short of people who have learned the Quran by heart. The Quran would face similar situations to what other divine books were facing. Umar shared his thoughts with Abu Bakar and suggested the compilation of the Quran in the form of a book.

The second lecture was by Maulana Mohammad Ghayasul Islam Rahmani, former director, MESCO-ALEEF, on Jama wa tadween Hadith. It preserved Hadith and became a source of inspiration for Muslims.

Business Session 2

It started with Mr Lateef Ateer's lecture. Mr Ateer is deputy secretary academics TMREIS (Telangana state minority residential schools). His topic was Arab Muslim contribution to medicine, mathematics and other sciences. It was an interactive session. Every student present in the auditorium enjoyed listening to him and learnt many things which they were unaware of. His main purpose was to make students aware that Muslims were the first in inventions in different field of mathematics, physical and social sciences. The contribution of women to science was also highlighted.

Business Session 3

"Revelation and its application, Sunaah as source of Shariah, which led to emergence and development of fiqh" by Mufti Omer Abideen of Fiqh Academy (Online from Dubai) was about Muslims regarding the Quran as the most important miracle of Muhammad (PBUH). It was the proof of his prophethood and the culmination of a series of divine messages drawn from the Quran which is the incomparable, infallible and final revelation from God. He said that the Quran

completes and supersedes all previous revelation. Hadith is a second major source of Islam.

Dr. Kaleem Ahmed Jaleeli, HoD, deptt. of Physics, Nizam College talked on a “Critique of globalisation”. According to him, globalisation is much less of a reality in other fields than it is in the economic one. Cultures till display strong national, regional and local variations. While English is clearly emerging as the common world language, at least as a second language, minority languages are making something of a comeback, mainly in developed countries. He highlighted Arabic as the main language from the olden days.

Day Three

Business Session 1

“Non-Muslims during the time of prophet (PBUH)” was the topic of Mohtarma Akheela Khamooshi.

Prof. Obaidullah Fahad, deptt. of Islamic Studies, Aligarh Muslim University, talked on “Non Muslims during the time of Prophet (PBUH) and the Rashidun caliphate” He took the examples of some non Muslims influenced by Muslims and said, Muhammad (PBUH) was the man of the hour. In order to understand his wonderful success, one must study the conditions of his times. More than five and a half centuries had elapsed since Jesus when he came into the world. At that time, the old religions of Greece and Rome, and of the hundred and one states along the Mediterranean had lost their vitality. Michael H Hart, in his book *The 100* has ranked the great men in history with respect to their influence on human history. He ranked the holy Prophet as the most influential man in human history.

Syed Omer Farooq, asst. professor, MANNU, talked on “Islam and knowledge”. He spoke about the life of the Prophet's (PBUH), In Makkah, he had a small following. In Madinah, he had many more and soon acquired an influence that made him a virtual emperor. During the next few years, while Muhammad's (PBUH) following

grew rapidly, a series of battles were fought between Madinah and Makkah. This war ended in 630 with Muhammad's (PBUH) triumphant return to Makkah as conqueror. The remaining two and a half years of his life witnessed rapid conversion of Arab tribes to the new religion. When Muhammad (PBUH) died in 632, he was the effective ruler of all of southern Arabia.

Business Session 2

"Non Muslims during the time of Prophet (PBUH) and Rashidun caliphate" was the topic of Prof. Obaidullah Fahad, The Rashidun caliphate refers to the rule of first four caliphs after the death of the Prophet Muhammad (PBUH) after his death in 632 CE (AH 11).

"Islam and Secularism" was G.Q. Haqqani's topic. He is MESCO College's senior faculty. He said secularism has no place in the lands of Islam for two reasons: The first of these is that Islam is the religion that Allah sent down to replace the previous manifestations of faith and to govern all aspects of life. The simplest Muslim can see how Islam explains all matters in detail.

Business Session 3

"Responsibilities of youth towards the state and citizens" was the topic of Prof. M. Afzal Wani, professor of Law GGSIP University. What are the responsibilities of youth? he asked. The youth, the future of the nation and the people who have the power and the destiny to change the nation have certain responsibilities towards the country. The youth is often considered the most powerful part of the population and that is a correct way to describe the youth, he observed.

Prof Haseena Hashia, former professor in the department of geography, Jamia Millia Islamia, New Delhi, talked on "Islam and terrorism". She spoke about Islam as a religion of peace. The word Islam has been derived from an Arabic word meaning peace. Islam has laid rules for believers, based on justice, harmony, honesty and coexistence. Even in war, a code of Islamic conduct is there.

Children, women and the disabled should not be harmed. Even flora and other living things should not be harmed, according to Islam. No religion teaches and approves acts of terror. Mrs Indra Gandhi was killed by a Sikh, Mahatma Gandhi by a Hindu. This does not mean whole communities should be condemned and made responsible for these heinous acts. Individuals are responsible. But terror and terrorists should be condemned at all levels. Prof. Hashia presented various verses from the holy Quran to prove that Islam is a religion of peace. She highlighted the various forms of torture prevalent in the world and asserted Islam rejects and condemns all these.

Day Four

Business Session 1

Prof Mirza Asmer Beg, of deptt. of political science, AMU, spoke on “Globalisation, Definition and Impact”. He said, Many people debate the impacts of globalisation and discuss the for and against conditions for it. Globalisation implies that something new is happening to the world. It leads to interconnection between countries of different cultures, races and religions.

“Islamic states in the world” was the topic of Mohammad Masood Ahmed, director, MIMCS, According to him the Muslim population in the world stands at second followed by other religion. He took the statistical details of the economy in the series of languages spoken education both gender and country wise and education policies, education standards, etc.

Business Session 2

“Muslims under the Muslims Empire Umayyads of Spain, Abbasids, the Ottomans” was the topic of Mohammad Naseeruddin, MESCO senior faculty. He emphasised mostly the empire of Ottomans which conquered European and Asian countries and spread Islam not with the force of sword, but with superior morals.

Business Session 3

Mr. Hamid Hussain, lecturer MESCO Degree College, delivered a lecture on “Islam, Modernity and Westernisation” and said that Islam is a complete religion which guides in all aspects of human life. It is realistic. It doesn’t give any scope for old age homes.

According to Islam, Muslims respect their parents and take cares of old people. According to a Hadith the Prophet (PBUH) said, “Every righteous person who casts a look of mercy and affection upon his parents shall be granted, for every look of his, rewards equivalent to that of an accepted Hajj”.

In Western culture sending parents to old age home is not discouraged. The Western culture actually began in the 16th century and they started the movement of “freedom of thinking”. The effects of Western culture started on Muslims from 1857 when the British conquered Delhi.

“Islam and liberalisation movement” was the topic of Khaja Hasan uddin Anas, member managing committee, Ayesha Niswan. He said that in current political discourse the “Muslim question” in India is not articulated in terms of demands for equity. Instead, the political leadership camouflages real issues of backwardness, prejudice, and social exclusion with the rhetoric of identity.

Day Five

Business Session 1

Mohammad Ihteshaam uddin Aziz, research scholar, Nizam College, spoke on “Islam and Multiculturalism”. According to him it is difficult to find a country in the world that has absolute uniformity in terms of religious identity. Whether it is the Jewish state of Israel, the heartland of Islam, or the Catholic states of southern and Western Europe, no state today is completely devoid of religious diversity. In attempting to cope with this challenge, academics, non-governmental organisations and others made the protection of ethnic and cultural

minorities a subject of great consideration in the European Union. The results were more imaginative models upon which the state could be based in order to manage such diversity.

“Islam’s Contribution to humanities and social sciences” was Mohammad Abdul Saleem’s topic. A research scholar at Nizam College, Abdul Saleem said Islam unified science, theology, and philosophy. Muslims were commanded by Allah to study, seek knowledge, and learn and benefit from others’ experiences.

Prof Syed Jamal ud Din, former professor of Jamia Millia, New Delhi, spoke on “Non-Muslims under Muslim rule in India”. According to him Muslims are governed by Muslim Personal Law. The Personal Law play a vital role in reconciling the conflicting interests of individuals. In India in personal matters, there is no national or regional law. Personal Law of a person is not determined by his domicile or his nationality but by his membership of the faith community to which he belongs.

At the valedictory session of the programme, the chief guest was Hazrath Moulana Mufti Khaleel Ahmed Sahab Sheikh-ul-Jamia, Jamia Nizamia, Hyderabad. It was presided by Dr. Ghouse Mohiuddin Ali, president MESCO. The virtual keynote speaker was Prof. Ishtiyaque Danish finance secretary, Institute of Objective Studies, New Delhi. The guest of honour was Mr. Mir Ayub Ali Khan of Siasat.com. This session was followed by distribution of certificates to the students.

**IOS Kolkata Chapter and Aliah University organises 5 day
Winter School on Islamic Studies
(15 to 19 February, 2021)**

Institute of Objective Studies (IOS), along with several other events, has started its Summer/Winter School programmes for the benefit of university students and has been conducting the same in recent years. The endeavours of the Institute are not just limited to the likes of Winter School but are spread over a vast range of academic undertakings furthering the target of imparting true knowledge that serves as a guiding light for students enabling them to navigate their way while never losing sight of their goal.

The Winter School workshop in Islamic Studies is conducted with a view to impart fundamental, yet deep knowledge to the university students who are to shape the silhouettes of the future horizons. The driving force behind the persevering efforts is to encourage them to accomplish their duties in leadership roles.

At a time when the world in unison is echoing in favour of a marriage of sorts between online and face-to-face instruction, both of which need to be well thought out and carefully designed, the efforts of IOS go a long way in facilitating and materializing the same.

This year, the IOS Kolkata Chapter jointly organised the event with the Department of Islamic Theology, Aliah University, Kolkata from 15th to 19th February, 2021. Respecting the protocol of the global pandemic, the five-day winter school was conducted online which gave the programme a broader spectrum and connection as well. The joint venture brought the likes of literary stalwarts Prof. Nilanjana Gupta and Prof. Mir Rejaul Karim to share the dais along with kind patrons like the Minister of State, Mr. Siddiqullah Chowdhury.

The five-day workshop commencing on February 15, 2021 at 06.30 p.m. was opened with a recitation from the Holy Quran by Maulana Ahmad Ali Qasmi, followed by a speech by Dr. Mohd Shamim Akhter Qasmi, Head of the Department of Islamic Studies, Aliah University. The topic was then formally introduced by Mr. Abdul

Basit Ismail, Coordinator of the Institute of Objective Studies, Kolkata Chapter.

The inaugural address was made by Prof. Z. M. Khan, Secretary General of Institute of Objective Studies, and two special addresses by Maulana Khalid Nadvi Ghazipuri, Shaikhul Hadith, Nadwatul Ulama, Lucknow and Maulana Siddiqullah Chowdhury, Minister-Mass Education, Extension & Library Services, Government of West Bengal. The attendees also had the pleasure of listening to inputs from special guest Prof. Mahammad Ali, Vice Chancellor, Aliah University, Kolkata.

Prof. Nilanjana Gupta from the Department of English, Jadavpur University, Kolkata compelled the audience to sit up and take notice of her informative and insightful comments that they were so relevant they seemed to hit the nail on its head.

Comprising of two lectures, Business Session-I of the Winter School commenced at 10.00 a.m. on February 16, 2021. First to speak was Prof. Ishtiaque Danish, a former Professor in the Department of Islamic Studies, Jamia Hamdard, New Delhi, followed by Dr. Imdad Hussain, Asstt. Prof. of the Department of Islamic Theology, Aliah University. Business Session II was taken over by Mr. Syed Abdur Rasheed, Head of the Department of Islamic Studies, Aliah University, Prof. Mohd. Fahim Akhtar, Head of the Department of Islamic Studies, MANUU, Hyderabad and Dr. Md Ashraf Ali, Assistant Professor, Department of Islamic Theology, Aliah University, Kolkata.

Prof. M. Afzal Wani, Professor of Law and Dean, University School of Law and Legal Studies, GGS Indraprastha University, New Delhi, took over the Business Session III along with Asst. Prof. Dr. Ziauddin, Department of Islamic Studies, AMU, Aligarh. Two very important topics “*Globalisation and Islam*” and “*Islamic Perspective of Knowledge*” were addressed by Prof. Wani and Prof. Ziauddin, respectively. The address made a lot of sense to the attendees who mostly represented the youth and 21st century of globalisation.

The eloquent Dr. Sajjad Alam Rizvi, Asst. Prof. in the Department of History, Presidency University, Kolkata addressed the topic, “*Muslim Contribution to Mathematics and Medicine*”. Dr. Rizvi blew the dust off our memories, revealing major contributions made by the Muslims, the most unique one being ‘cross application of disciplines’, the ones made by Umar Khayyam and so on.

Dr. Muhammad Raziul Islam Nadvi, Assistant Editor, Tahqeeqate Islami Quarterly, Aligarh, spoke on the “*Islamic Perspective on Money and Wealth*” presenting the most beautiful and equitable social scenarios that could ever exist and how effortlessly this can be materialized following the light of Islam. According to Dr. Islam, the two common approaches to wealth are either extreme dearness, resulting in ‘hoarding’, or repulsion towards it, considering wealth an impediment in the spiritual and humanitarian growth. Islam clearly defies both and professes wealth as an important means of life. Prof. Hamid Naseem Rafiabadi, Department of Islamic Studies, University of Kashmir, enriched the audience with the elixir of years of his groundwork and study on the topic, “*Islam in the 21st Century*”. At the end of his discourse the audience was left confident that they now had a better understanding of the challenges faced by the youth in the 21st century and also had a firm grip on how these challenges could be faced or worked around.

“*Non-Muslims under the Muslim Empires*” was the topic explained by Dr. Enayatullah Khan, Asstt. Prof., Department of Islamic Theology, Aliah University. Sensitive as it is, the topic required gentle and tactful handling, which is exactly what Dr. Khan was able to do. The second lecture of the Business Session V, held on February 18th 2021, was delivered by Dr. Mohd. Shamim Akhter Qasmi, Head of the department of Islamic Theology, Aliah University, Kolkata on the topic “*Development of Fiqh*”. His topic was an issue that needs to be better understood both within and outside the community, and a major chunk of misconceptions and doubts can be simply done away with. As expected, Dr. Qasmi was efficient in doing just that.

The commencing lecture of the Business session VI was one by Prof. Arshi Khan, Department of Political Science, AMU, Aligarh on the

much talked about topic, “*Islam and World Peace*”. In the wake of controversial allegations like fundamentalism and terrorism, Prof. Khan, raised and answered questions like “Why there is no world peace?”, “How can we achieve world peace?” and “How Islam plays a vital role in bringing peace into our lives by channelling thoughts positively”? He was deftly able to uncover the western conspiracies behind such propaganda and present the desperate need to cling to the tenets, true spirit of Islam in order to restore peace. The second lecture by Dr. Abu Tamim, Asstt. Prof., Department of Islamic Theology, Aliah University, focused on “*Islam and Humanity*”. Smoothly and systematically, Dr Tamim, could disintegrate the allegations against Islam proving quickly that a religion going against the fabric of humanity could never possibly have gained the status of the second fastest growing religion in the world.

Finally, ending the day’s session with the lecture by Dr. Uzma Naheed, Director, Iqra Education Foundation, Mumbai, on “*Women in Islam*”. In the light of the arguments made by Dr. Naheed, the accusations of the Western world that has so often been used against Islam, seemed to naturally succumb and fizzle out. “Every time an attack is made on Islam, the media targets women and issues relating to them”, said Dr. Naheed urging Muslim women to watch out and prepare themselves by being aware of the rights and freedom that Islam has provided them with.

The first of the two lectures in the second last Session was on “*Islam and Multiculturalism*” by Prof. Obaidullah Fahad, Department of Islamic Studies, AMU, Aligarh. The fervour with which Professor Fahad delivered was infectious. In no time, he had won the audience over to his side as opposed to the popular sectarianism. This was followed by the address by Prof. Syed Jamaluddin, former Professor, Department of History, Jamia Millia Islamia, New Delhi, on the topic, “*Muslim Contribution to Social Sciences*”. The lecture was packed with useful information much of which came as a surprise to most, compelling us to ponder how little we are aware of our own contributions to society.

February 19, 2021, the last day of the five-day workshop arrived even before we knew it. As is the tradition the Valedictory Session was started with a recitation from the Holy Quran by Maulana Ghulam Rabbani Nadvi and was followed by the Key Address aptly called “*The Way Ahead*” by Prof. Ishtiyaque Danish, Former Professor, Department of Islamic Studies, Jamia Hamdard, New Delhi. Prof. Amzed Hossein, Professor of English and Dean of Students’ Welfare, Aliah University, Kolkata, Md Nadimul Haque, honourable Member of Parliament, Dr. Sk. Ashfaq Ali, Deputy Registrar, Aliah University, ensued the Key address. The Theme Address was made by Dr N Sabah Ismail Nadvi, Alig, Chief Administrator, Jibreel International School, Kolkata. Dr. Ismail skilfully summed up the five-day journey, stringing the various pearls of wisdom into a single strand.

Dr. Mohammad Manzoor Alam, Chairman, Institute of Objective Studies, New Delhi, delivered the Presidential Address while the workshop was concluded with a vote of thanks by Mr. Abdul Basit Ismail, coordinator, Institute of Objective Studies, Kolkata Chapter.

**IOS on-line lecture on “Musharakah financing (joint partnership) and its Relevance in India”
(February 20, 2021)**

New Delhi: An on-line lecture on Musharakah financings (joint partnership) and its relevance in India” was organised by the Institute of Objective Studies on February 20, 2021. The lecture was delivered by the professor at the Centre for West Asian Studies, Jamia Millia Islamia, Prof. Javed Ahmad Khan. Introducing the topic, Shaikh Nizamuddin, a member of the general assembly of the IOS, said that capitalism had now become federalism, and in response to the prevailing dominance of the capitalist and the socialist economic systems in the Muslim world since the early 19th century, the pioneers of Islamic economics were engaged in reframing the Shariah-based modes of fiancé as an alternative to capitalism and socialism. In contemporary times, musharakah was considered as an ideal model of the long-term financing needs. He observed that musharakah was a standard partnership contract from the early Islamic trade and investment activities.

Delivering the lecture, Prof. Javed Ahmad Khan, said that he had been asked by the IOS chairman, Dr. M. Manzoor Alam to make a presentation on how musharakah financing could be developed in India. Islamic financing had several aspects which needed to be descriptive in today’s context. Explaining the historical and political aspects of Islamic financing, he said that the musharakah had attracted the global attention of late. That was the reason why more and more discussions on the subject were being held among developed nations. There were certain issues, like the transfer of surplus to deficit units and equity that needed to be discussed. He observed that the ulema too were examining the concept of Islamic financing in the light of Shariah. It was also being examined if Islamic mode of financing was relevant and working. Then there was also a question why the issue of Islamic financing did not occur to the minds of the ulema and the scholars throughout the Islamic history. The musharakah became relevant in 21st century and the needful was being done in a critical manner and in the Shariah framework, he said.

Prof. Javed Ahmad Khan pointed out that today the Islamic mode of financing was receiving more attention in the west than in Muslim countries. Holding that there was rationality behind putting to question the modern banking system, he said that no financial system could survive on credit-based financing. He noted that a very disturbing trend was taking place in several Muslim countries, except a few of them, like Turkey, Malaysia and Bangladesh, because they were not progressing despite being very rich. This had caught the attention of scholars. In 1973, about 400 scholars, finance ministers and economists assembled in Mecca to deliberate on the issue.

He said that musharakah and musharba were the back-bone of Islamic financing. This was in practice when Arab traders came to India and China. In 1975, Islamic Development Bank and other Islamic banking institutions came out with economic and financial development based on Shariah. It was significant to note that Islamic banking had not been criticised like Islamic fundamentalism. Its acceptability can be determined by the fact that Russia and the UK had adopted the Islamic banking system. There were two routes of Islamic financing, viz., musharakah and musharba, he said.

Prof. Khan explained that under the Islamic financing, risk was shared by the partners as it was based on a rationalistic approach. On account of being rationalistic, it was getting attention world-wide and becoming popular among non-believers as well. Risk sharing mechanism included capital financing and equity financing. Then there was crowded equity financing which was not permitted in India. There were the new sharing instruments under the musharakah which could be utilised in India. He said that India looked favourably to the risk sharing capital. Referring to venture capital fund, he said that the international community was looking to equity financing in IT and service sectors. India was also looking to international capital investors for investment in these sectors.

According to the study conducted by the London School of Economics in Malabar, Muslim traders who came to India, applied musharakah and musharba instruments, he said.

Prof. Khan remarked that a new trend had emerged under which Arab leaders wanted high return on their trade. India too wanted gulf investment in the country. She was very interested in capital stock, share market and sukuk capital financing. He said that sharing capital finance was the modern trend and the global sukuk insurances were growing. Though musharakah financing held a high promise in India, it was a big challenge too, he concluded.

In his presidential remarks, Dr Kaleem Alam, faculty, Islamic Economics Institute (IEI) King Abdul Aziz University, Jeddah (KSA), emphasised that India must become a member of Islamic Development Bank (IDB). Giving the illustration of Nigeria, he noted that it was growing fast on Islamic financing. Algeria had enacted a law for Islamic financing. In Spain, a debate on introducing Islamic system of banking was going on. Saudi Arabia had unveiled vision-2030 for the purpose. But in India, it was still a challenge as it was not an easy task to perform. He opined that parts of musharakah could, however, be implemented. Commenting on housing finance, he said that it had some constraints, but could be implemented. This was not something that could not be practiced. It was trust deficit that lacked everywhere. He pointed out that Prof. Javed went soft on the political aspect of the issue.

The chairman, IOS, Dr. M. Manzoor Alam held that he participated in several meetings held by IDB. The then President of India, Fakhruddin Ali Ahmad also participated at Rabat. He said that some differences among the members surfaced during the meeting of the OIC (Organization of Islamic Countries). They wanted India to first apply for its membership. But he was categorical in his observation they did not want India to become a member of the organisation. He doubted if India would take an initiative in this regard.

At the end, Shaikh Nizamuddin proposed a vote of thanks to the on-line attendees.

**IOS on-line national seminar on “Impact of Covid-19:
A Gender Perspective”
(March 8, 2021)**

New Delhi: An on-line national seminar on “Impact of Covid-19: A Gender Perspective”, was jointly organised by the Institute of Objective Studies and the department of Geography, Jamia Millia Islamia, on March 8, 2021, marking international women’s day. The seminar began with the recitation of a verse from Qur’an by Hafiz Athar Husain Nadwi.

Inaugurating the seminar, the officiating vice-chancellor of JMI, Prof. Mohammad Ishtiaq said that the women’s day was celebrated every year as a mark of dignity to women. This was also an occasion to give recognition to their devotion to society and the nation. They were an integral part of society as they played an important role in its welfare. Women attained greater heights due to the equal opportunities they enjoyed. He observed that women were capable of performing every job which a man did. From the upbringing of children to doing domestic work, women were seen doing their duty everywhere. He called for recognising the importance of women in building the society. Referring to the impact of the corona-19 pandemic, he said that it had affected both men and women. It impacted workplace and home alike. Corona-19 had had a catastrophic affect in rural areas too where women became more vulnerable. There were reports of rising number of cases of domestic violence against women after the deadly pandemic struck human beings, he noted.

Introducing the topic, the assistant secretary general of the IOS, Prof. Haseena Hashia, expressed concern over inhuman treatment meted out to women and increased violence against them. Ill-treatment to women affected every walk of life. They were a neglected lot and the government was duty-bound to recognise the damage done to them. She observed that women were a marginalised section globally and their plight should be seen in that context in India as well. Wherever a disaster struck, both men and women lent a helping hand to the affected people, but it was women who became more vulnerable. By performing household duties, women cared for economy. Quoting a

UN report, she said that about 65 percent women were engaged in the informal sector. In India's case too, they were employed in the informal sector and paid minimally. Bangladesh had emerged as the world's second largest exporter of garments prepared by women. Underlining the need for gender equality, she observed that government should map out long-term plan for dealing with the ill-effects of pandemic on women. Gender justice mechanism should be put in place to evaluate the schemes run for the welfare of women, she said.

In her welcome address, head of the department of geography, JMI, Prof. Mary Tahir, said that the seminar was the outcome of deliberations that took place between the IOS and the department on the subject. The international women's day suited the webinar most.

Speaking as the guest of honour, Dr. Madhu Bala from Bihar disaster management authority described women as victims and caretakers of the family. Seventy percent women health-workers suffered due to non-payment of their care work. She said that women shouldered the responsibility of performing most of the work, including passing full time with children. The world would have worn worse spectacle if the women had not registered their presence during the Covid-19 pandemic. She called for training of women to deal with the situation arising out of disaster times. She also stressed that Covid-19 should be seen in gender perspective. In her keynote address, former consultant to UN women, school of international studies, Jawaharlal Nehru University, Prof. (Dr.) Mondira Dutta, observed that the world was in corona in a way since one year and now was the time to come out of it. The covid-19 pandemic is so hard that the efforts to achieve millennium development goals had been affected. Covid-19 also impacted socio-economic life of the people. She said that everybody faced the same problem during the pandemic that affected every segment of society. According to the report based on the queries from the workers on the effect of Covid-19, pre and post-pandemic, the respondents replied that both men and women were equally hit. She held that migrant workers who left the cities of their work alone accounted for 45 percent. Out of them, 33 percent were with their families. Scarcity of food and insecurity led to the

starvation of workers. They faced shortage of money which resulted in the cutting down of nutritious food, medicine, milk; etc. She noted that about 320 million children had been affected by the closure of school in India. On-line classes did not function. Cleanliness and sanitation, however, were discernible due to social distancing. She also said that government entitlements did not work much, but free rations gave some relief to workers. It was also true that 73 percent people got nothing in the name of free rations. Referring to mother and childcare, she said that most of the mothers were deprived of post-natal care and inoculation. She observed that the cases of violence against women in public places were on the rise due to the consumption of alcohol by men. She concluded by saying that working from home had benefited women adding that they could really become care-givers if trained and empowered.

In his presidential remarks, the secretary general of the IOS, Prof. Z.M. Khan pointed out that the gender study did not figure in the lecture. If somebody was interested to work on it, he could apply to the institute for financial assistance. He held that the concept of work from home, necessitated by the covid pandemic, was a new thing for India. Referring to violence, he said that it could not be tackled by the security forces, the government or social groups alone. Non-governmental organisations had been very effective in rendering help in this connection. He observed that *Naari Chetna* (women's awakening) could play a pivotal role in dealing with domestic violence.

The inaugural session ended with a vote of thanks extended by Dr. Lubna Siddiqui, associate professor, department of geography, JMI.

Technical Session-I

The first technical session was chaired by the professor and former head of the department of geography, JMI, Prof. Shahnaz Parveen. Dr. Taruna Bansal, associate professor of geography, JMI was the co-chair. Prof. Ushita Mukhopadhyay, professor, department of economic and former director of women's studies research centre, university of Kolkata, initiated the discussion by speaking on the

pandemic and women's work in India. She said that during the pandemic, many women were seen leaving their homes with the risks and vulnerabilities increasing. Women also suffered due to intra family problems and nutrition. Owing to manufacturing shut-downs, women suffered and left their homes. There was increase in the charity that sharply skewed sexual relationship. Women were working for their survival without care for the rate of wages. But now, 60 percent men were back to work with women registering only 6 percent. She described it as the reverse immigration. This spoke of the tremendous economic disparity in India. Then there was inequality within women – a common woman could not be equated with a rich woman. Common women were always in deep indebtedness. She called for immediate implementation of employment guarantee scheme and cash entitlement.

Dean and director, Women's Studies department, University of Goa, Prof. Shaila, Desouza, spoke on 'Can a pandemic affect women differently from men? She sought to know what the people learnt from previous natural disasters. Commenting on the Tsunami that brought in its wake destruction of life and property, she said that male survivors outnumbered females by a ratio of about 3 male to 2 female. The global fund for women created in 2005 was caught in the storm and they were at the increased risk of violence. She observed that in the chaos and disparity, women did not receive necessary healthcare. Disaster relief efforts too more often failed to provide succor to women. Despite economic vulnerability, women were often the first to mobilise local relief efforts. Natural disasters had impacted women differently from men. Quoting UN Report-2020, she said that the Covid pandemic had deepened the pre-existing inequalities. Covid also impacted women's education. She made several recommendations for the upliftment of women including, participation of women in planning, keeping them safe, protection of girls education, targeting of women's health needs; etc. Besides, food security be provided to all women without regard to caste and creed. She also stated that distribution of equal aid should be ensured. Dr. Shubha Dwivedi, assistant professor, department of English, ARSD College, Delhi University, discussed the pandemic narratives of re-dreaming and self-becoming reading pandemic literature to interpret

the condition of Indian women. She said that publishing of books and articles had almost stopped during the period. But whatever was written became a therapy as women wrote satires. Covid-19 encouraged writers to write fiction, non-fiction and poetry. Women writers and poets wrote on social, legal and political issues. They helped others understand the unheard voice during the pandemic in poetry. These writings also touched upon the inequality women were subjected to. Poems and stories written during the period raised questions of domestic laws. Questions were also raised about women empowerment, gender discrimination and the journey of self-realisation, she added.

The last speaker of the session was Dr. Suraiya Tabassum, assistant professor, Sarojini Naidu Centre for Women's Studies, JMI, who spoke on domestic violence and pandemic: a feminist perspective. She argued that physical and sexual violence against women rose because of the long spell of the pandemic. However, there was considerable cut in the number of such cases due to lockdown. She said that domestic violence was the expression of masculinity. She felt the need for a new model for redressal of their grievances. Community policing could also be put in place, she observed.

Technical Session-II

The second technical session was chaired by Prof. Arvinder A. Ansari, department of sociology, JMI and co-chaired by Dr. Lubna Siddiqui, associate professor, department of geography, JMI. Dr. S. Jameela, director, centre for women's studies, Justice Basheer Ahmad Sayeed College for Women, Chennai was the first speaker who focused on women and the new normal: challenges faced and resilience. She noted that covid had become a new normal and nobody knew if it would remain or change. Social distancing was the new normal. Women had new responsibilities before them because the covid threw a challenge for the use of new technologies. One should be prepared for the new normal as sweeping changes would take place in social life and the business world. Women suffered a lot in terms of income and otherwise. They were exposed to high risk of economic inequality. In terms of gender equality, both men and

women suffered. As working women, they had to perform all household duties. She said that women and girls were exposed to the risk of exclusion from the decision making process. In such circumstances women's leadership was very essential. Gender parity was still 42 years away. For women, working from home and at home was very challenging. Their problems should be seen from the gender prism. While calling for the maintenance of policy responses, she held that no country could prevail over covid-19 by keeping itself aloof. Assistant professors, sociology, advanced centre of women's studies, Aligarh Muslim University, Dr. Tarushikha Sarvesh and Dr. Tauseef Fatima jointly put across their views on augmented inequalities due to Covid-19: a study of women working in lock industries of Aligarh. They gave the example of women engaged in the assemblage of the components of locks in Aligarh. They received good wages in some cases. They had now restricted their mobility in lock industry. Covid-19 impacted the life of lock industry. By and large, they were getting exploited. Though they had networking amongst themselves, yet not formal. They said that the question of awareness among women was most important. They also spoke on feminisation of poverty goals.

Valedictory Session

The concluding session began with the recitation of a Qur'anic verse by Mohammad Rashad. In her welcome address, head of the department of geography, JMI. Prof. Mary Tahir, outlined the purpose of the seminar. She said that covid-19 impacted women most because they had to fight on two fronts. Their support to their spouse was very crucial, she observed. While Dr. Aruna Paarcha, assistant professor of geography, JMI presented the report on the one-day seminar, Prof. Shahida Murtaza, head of the department of women's education, Maulana Azad National Urdu University (MANUU) in her special address, held that about 32 participants were connected to the seminar. Referring to women and their leadership, she said that achieving the goal of their leadership in covid pandemic times had become difficult. Tracing the history of women's day, she said that it was first celebrated by the socialist party in USA. It was followed by Australia and Germany in 1911. The

United Nations formally adopted a resolution in this regard. She observed that in order to achieve gender equality, the number of women in the workplace should be increased. Inter-sectional and inter-generational vulnerability was also an issue that needed to be addressed. Commenting on the adverse effects of covid-19, she said that it led to loss of wages and a large number of girls were withdrawn from schools. The pandemic also impacted social relations that saw upsurge of sexual violence at home. Inequality had become perpetual and it was difficult to compensate for the loss. Women and girls had to travel long distances without any help forthcoming. She said that recovering from the current situation was a big challenge. She suggested a way out of the present crisis by saying that there should be societal response, budgetary resources and a centre for policy making.

Speaking as a guest of honour, Prof. P. Koya, in-charge of IOS center for gender studies, Calicut, Kerala held that the people faced a monstrous health crisis and fortunately this had been overcome. Women suffered the double jeopardy because they were forced to remain inside the house and lived with children who could not go to school. He said that women were subjected to physical, mental and psychological abuse. There was seemingly no end to the misery as covid was not going away in the near future. He suggested that the impact of the pandemic could be reduced by coordinated action of universal civil society, social and humanitarian organisations and the NGOs. He concluded by saying that about 13 crore migrants moved to their home states after the lockdown was enforced. Role of charitable organisations come in for appreciation for providing food and other essentials to them.

Speaking as another guest of honour, vice-chairman of the IOS and professor of law and director, coordination, Guru Gobind Singh Indraprastha University, Prof. M. Afzal Wani, explained how women faced hassles and how they successfully overcame the hurdles. Holding that a girl child was more cosmic and more futuristic, he said that Allah preferred a girl child for Prophet Zakaria over a male child. According to Qur'an, girl was the future of humanity and a life without a girl child could not be imagined. But this was also a fact

that they faced the trauma of violence in life. They deserved respect and were second to none. They held critical positions in the corporate world. Thus they should be developed as social, economic and cultural leaders. He asked the society to give girls academic niceties and acumen. He described the girl as maintainer and sustainer.

In his presidential remarks, former head of the department of geography and coordinator, centre for disaster management, JMI, Prof. Masood Ahsan Siddiqui, held that the theme was very sensitive as it involved fair sex. He said that the entire discussion revolved round the economy and health of women and domestic violence. Referring to domestic violence, he pointed out that one in every three women faced physical violence at least once in her life-time. She faced violence irrespective of being mother, wife or daughter. He insisted that constitutional measures should be taken to protect them from domestic violence. They must be treated as mother, wife and daughter at home. Though women had representation in various fields, yet it was insignificant. Women representation was a must to attain sustainable goals of development. He called for developing a positive mindset vis-à-vis women.

At the end, assistant secretary general of the IOS, Prof. Haseena Hashia, extended a vote of thanks to participants.

**IOS On-Line Lecture on “Role of Religious/Spiritual
Institutions in the Management of Mental Health Problems”
(April 5, 2021)**

New Delhi: An on-line lecture on “Role of religious/spiritual interventions in the management of mental health problems” was organised by the Institute of Objective Studies on April 5, 2021. Chaired by Prof. (Dr.) Shawkat Ahmad Shah, dean, school of education and behavioural sciences, University of Kashmir, the lecture was delivered by Prof. Akbar Husain, professor in the department of psychology, faculty of social sciences, Aligarh Muslim University. The lecture began with the recitation of a verse from the Qur’an by Hafiz Athar Husain Nadwi.

Introducing the theme, Prof. Shawkat Ahmad Shah said that there was a large body of empirical evidence suggesting links between spiritual and religious experiences, practices and health. This explained the role of religious and spiritual interventions in the management of mental health problems. In critical practice, greater attention was being paid to the role of religious faith and spirituality in an effort to help and alleviate mental health problems and to bring a more comprehensive and holistic approach to intervention, he noted.

Delivering the lecture, Prof. Akbar Husain said that mental health problems had increased during covid-19. Everyone had a religious dimension to the mental health. Spiritual dimension was transformed from this world to the other. Thus the role of spirituality and religious in mental could not be denied. Referring to therapies of mental health problems, he observed that there were four such therapies. The first therapy, he spoke of, was remembrance of God and religion. This therapy helped release positive energy to improve mental health. The second therapy, he emphasised was the prayer. Reading scriptures, the Qur’an; etc. helped relieve one from mental stress. The third therapy, he mentioned, was *taqwa* or forbearance, fear and abstinence. This also worked for the improvement of mental health. According to him, *Akblaq* or good conduct played a positive role in improving mental health.

Prof. Akbar Husain observed that American psychologists believed that religion played an important role in the improvement of mental health. He pointed out that three things contributed to religious interventions. These were knowledge, practice or *Ibadah* and experience. He explained relationship between religiosity and spirituality. He said that a study made on about 3500 people revealed that if religion and spirituality were integrated into health, the results would be very encouraging. He quoted prophet Daud who said that spirituality was a hidden kingdom. He insisted that spirituality was helpful in the treatment of psychiatric problems. Spirituality and religion should be used for psychological treatment. Quoting a report of Australian bureau of research, he noted that 16.5 percent people of the world did not identify religion. Defining spirituality, he said that there were three forms of it. One of the forms of spirituality was belief in sacredness. Under this form, any object might be sacred. The second one was the belief in unity. Under this form, body, mind and spirit were integrated with the heart. The third and the last form was the belief in transformation. This form of spirituality finally paved the way for annihilation or *Baqā* which meant finale to the existence of human being, he added.

Prof. Akbar Husain maintained that religious and spiritual intervention integrated body and the spirit. For this, positive thinking was very important. This called for deeper understanding of positive thinking. Referring to therapies, he said that religious and spiritual therapies of mental problems had been prescribed. He observed that there were different types of medication. Therapies could be based either on religion and spirituality, prayer or recitation. Spiritual therapeutic practices were integrated into Islam. These led to emotional and spiritual health, and purification of soul. He maintained that the Qur'an was divinely revealed and thus was the holy scripture. It provided guidance to man. Reading and recitation of Qur'an cleansed the mind to overcome all obstacles. He opined that the *Tabajjud* prayer offered before dawn overcame desperation. This had been revealed in several studies made in this connection. This had also been mentioned in the Sufi literature. Several studies conducted on nursing students showed that listening to Qur'an had a salutary effect on patients. These formed a part of the project to

assess the effect of sound therapy. Then he touched upon two other therapies— nature and recitation of Qur'an. Qur'an recitation had been found to have mental peace because it removed anxiety. Serenity and calmness were the positive effects of Quranic recitation. The Qur'an also had positive effect on mental health of its reciter, he insisted.

Prof. Akbar Husain, opined that in order to achieve greater calm, Qur'an should be recited and listened to by the patient. Laying emphasis on the memorisation of the holy Qur'an, he said that Quranic recitation strengthened psychologically and physically. He referred to certain Hadith that supported this contention. Commenting on the spiritual significance of the prayer, he argued that prayer was a spiritual exercise. It also speeded up blood flow in the body. Similarly, practice of *salat* gave mental peace. Congregational *salat* (prayer) was a group exercise. He insisted that prayer had the power of healing and the recitation of *Surah Rahman* removed mental depression. According to a study conducted in 2013, recitation of Quranic verses yielded positive results among the patients of cardio-vascular disorders. Referring to the effects of Quranic recitation, he said that both memorisation and listening led to psychological and spiritual peace. Prayer had objective characteristics with the Quranic recitation as spiritual and religious therapies. He remarked that a prayer scale was developed to measure the attitude of people to prayer. Prayer and belief played an important role in the purification of soul. It also aroused internal consciousness. He observed that meditation too helped improve health. He concluded by saying that faith-based counselling should be attempted as faith aspect was very important in this type of therapy. He also stressed that Islamic therapeutic techniques should be popularised.

The lecture ended with Prof. Shawkat Ahmed Shah extending a vote of thanks.

**IOS-MANNU Organises a Two-Day Webinar on ‘Islamic Sciences during Muslim Rule in the Deccan’
(April 7-8, 2021)**

A two-day national webinar on ‘Islamic sciences during Muslim rule in the Deccan’, was jointly organised by the Institute of Objective Studies and Maulana Azad National Urdu University, Hyderabad on April 7 and 8, 2021 via Zoom at Hyderabad.

Presided over by the acting vice-chancellor of MANNU, Prof. S.M. Rahmatullah, the first-day session began with the recitation of a verse from Qur’an by Dr. Atif Imran from the department of Islamic Studies. Prof. Mohammad Fahim Akhtar Nadwi, head of the department of Islamic Studies, presented the welcome address in which he thanked the IOS chairman, Dr. M. Manzoor Alam for extending cooperation in the organisation of the webinar. The topic was introduced by the assistant professor of Islamic Studies, Dr. Zeeshan Sarah. Before delivering his presidential speech, Prof. Rahmatullah released the book *Hindustani Musalman Aur Islami Tasakkhubh: Masa’ail Aur Hal* written by Prof. Mohammad Fahim Akhtar Nadwi and published by the IOS. He welcomed the guests and congratulated the department of Islamic Studies of the University for organising the webinar.

In his key-note address, former vice-chancellor of Osmania University, Hyderabad, Prof. Mohammad Suleman Siddiqui, said that the history of Deccan Muslim was 600 years old. The six-century old history had in its wake a rich legacy of art and culture. But unfortunately, this area was left untouched by the researchers. He observed that during the rule of Mohammad Bin Tughlaq in Delhi, the Muslim urban centre came into being in Deogir (Daulatabad) in the Deccan. During the same period, Alauddin Hasan Gango Bahmani established the Bahmani kingdom. This period was marked by the visit of a number of ulema, sufis, etc., to the Deccan. Majority of these ulema were Shiite with the result that shi’ism flourished in the region. During the two phases of the Bahmani Kingdom, Gulbarga became the hub of the Sunni ulema who patronised scholarship and Bidar attracted Shiite ulema. Their influence

continued to dominate during the entire period. He made special reference to Sheikh Ainuddin, Sheikh Rukunuddin, Sheikh Burhanuddin Gharib and Khwaja Gesudaraz, and threw light on their writings and their contribution to scholarship. He referred to Ainuddin Ganjul Ilm's book *Atwarul Abrar* that spoke of 132 sufis belonging to Junaidiya Sufi Order who made Deccan as their abode and enriched it with knowledge. He dilated on the nobles of Bahmani Kingdom, like Mir Fazalullah Anju, Mahmud Gawan and others.

As a guest of honour, dean, faculty of theology, Aligarh Muslim University, Prof. Saud Alam Qasmi, spoke on the contribution of sufis in the Deccan. He said that Khwaja Gesudaraz had already initiated inter-religious studies in the fourteenth century. The Khwaja learnt Sanskrit to study Buddhist and Hindu religious books in detail and tried to understand these religions for the purpose of Dawah. The director of Zakir Husain Institute of Islamic Studies, Jamia Millia Islamia, Prof. Iqtedar Mohammad Khan, focused on the contribution of Asifjahis to Islamic learning. He made special mention of Maulana Maududi whose thoughts were influenced from the intellectual milieu of Asifjahi rule. The Asifjahi system of governance had a bearing on the ideas of Maulana Maududi. Former head of the department of Islamic Studies, JMI, Prof. Mohammad Ishaq, highlighted the love of the Bahmani rulers for knowledge and their contribution to its promotion. Head of the department of Arabic, MANNU, Prof. Syed Aleem Ashraf Jaisi mentioned the important books on Sufism, particularly the books written by Maulana Abdul Jabbar Malkapuri. He said that while only few places in the South were known for the spread of Sufism, the entire Deccan region was humming with sufis. They left their imprint everywhere in the region. He described Dairatul Maarif Osmania as one of the important centres of learning. Dean faculty of social sciences and former head of the department of Islamic Studies, University of Kashmir, Prof. Naseem Ahmad Shah threw light on the contribution of Muslims to the art of translation and other sciences. He said that Muslim rulers of Deccan patronised literature, science, Islamic Studies and other branches of knowledge. In this respect, the Deccan assumed the same place in India as did Spain in the Arab world. Director of Haroon Khan Shervani Centre for Deccan Studies, MANUU, Prof. Mohammad Naseemuddin

Farees commented that Muslim rulers of Arcot in Madras and Tipu Sultan in Mysore took interest in the promotion of knowledge, art and literature. Among those who spoke on the occasion included Vice-president, All India Majlis Tameer-e-Millat, Prof. Ziauddin Nayyar, Sheikh al-Fiqh, Jamia Nizamia, Hyderabad and the director, historical research projects, IOS, Prof. Syed Jamaluddin. Prof. Jamaluddin in his presentation said that the Muslim rulers accomplished the first task of attaining power in the region followed by reinforcing their political and economic power. Later on, they turned their attention to art, culture and literature. Referring to the spread of sufism in the Deccan, he noted that the sufis also contributed to the development of Tibbi system of medicine. They used to give written prescriptions for treatment of diseases. In this connection, he specially mentioned the name of the sufi saint, Syed Shah Aale-Rasool (Marehwi). One of the notable features of the period was that from Bahmani to Asifjahi rulers patronised different branches of knowledge, he concluded.

Technical Session-I

The first technical session of the webinar was chaired by Prof. Syed Aleem Ashraf Jaisi, head, department of Arabic, MANUU. Assistant professor of Islamic Studies, MANUU, Dr. Atif Imran conducted the proceedings. In this session a total number of 8 papers were presented. The first paper was read by the head of the department of history, MANUU, Dr. Danish Moin who spoke on 'Influence of Shi'ism in the light of numismatic evidences'. It was followed by the presentation by Prof. Saud Alam Qasmi, who focused on Role of Khwaja Gesudaraz in the promotion of comparative study of religions. The third paper was presented by Aejaz Malik, research scholar in the department of Persian, University of Kashmir. His paper centered on 'Promotion of the study of Hadith during Asifia rule. While the fourth speaker was the head of the department of Islamic Studies, Aliah University, Kolkata, Dr. Sumaiya Ahmad, who dwelt on Study of Qur'anic knowledge in the Deccan, the fifth speaker was the assistant professor of Islamic Studies, MANUU, Dr. Mohammad Irfan Ahmad who spoke on 'Few scholars of the Deccan and their historical works'. The sixth paper presenter was assistant

professor at Indian and Foreign Languages University, Hyderabad, Dr. Anzar Nadwi. He based his discussion on the Deccan Ghazals and Mathnavis in praise of the Prophet (PBUH). The seventh speaker was Dr. Ghatrif Shahbaz Nadwi from AMU who presented his paper on the review of the popularisation of Islam in the study of English orientalis. The session concluded with the presentation of the paper on initial imprints in the study of Hadith in the Deccan by the in-charge, Urdu section, IOS, Shah Ajmal Farooq Nadwi.

Technical Session-II

The second technical session was chaired by Prof. Naseem Ahmad Shah. Dr. Atif Imran conducted the proceedings. In all, 9 papers were presented in the session. Assistant professor, department of Islamic Studies, JMI, Dr. Umar Farooq was the first speaker who touched upon 'Promotion of Islamic Studies under Bahmani Kingdom as told by Mahmud Gawan. It was followed by Maulana Faisal Ahmad Bhatkali Nadwi who teaches Hadith at Darul Uloom Nadwatul Ulema, Lucknow. He focused on 'Kutubkhana Saeediya, Hyderabad: An Introduction'. The third speaker was Maulana Ilyas Hashmi Nadwi from Dairatul Maarif Osmania, Hyderabad, who presented his paper on 'Libraries during and after Bahmani Kingdom'. He was followed by the assistant professor, department of Arabic, MANUU, Dr. Sameena Tabish who spoke on 'Sufism: Study of the growth of Chishti order from fourteenth to seventeenth centuries'. Assistant professor at Central University of Karnataka, Dr. Majid Manyar was the fifth paper presenter who spoke on the 'Writers of the Deccan: Contribution of Haroon Khan Sherwani and Ghulam Yazdani: An introduction'. The sixth paper was presented by Dr. Fazal Ullah Sharif who discussed the 'Intellectual contribution of Ahyaul Ma'arif al-Noamania'. The seventh paper presented by Maulana Jamil Akhtar Jalili (Jharkhand) was devoted to the contribution of Islamic Studies during Adil Shahi rule. Research scholar in the department of Islamic Studies, MANUU, Maulana Saqib Raz, spoke on 'the writings of Khwaja Gesudaraz with reference to Islamic Studies'. The ninth and the last paper was presented by Prof. Naseem Ahmad Shah who spoke on 'The role of the Deccan institutions in the translation of scientific text into Urdu'.

Technical Session-III

The third session was chaired by the head of the department of Arabic, English and Foreign Languages University, Hyderabad, Prof. Syed Rasheed Naseem Nadwi. Dr. Zishan Sarah, assistant professor of Islamic Studies, MANUU, conducted the proceedings. A total number of eight papers were presented in the session. While the professor of Arabic at English and Foreign Languages University, Hyderabad, Dr. Muzaffar Alam spoke on 'Tarikh-i-Farishta: A brief review', Dr. Waris Matin Mazhari, assistant professor of Islamic Studies, Jamia Hamdard, New Delhi, dwelt on the 'Poetry of Anwar-Ullah Farooqi: A study'. The third paper was presented by the Professor of Islamic Studies, Osmania University, Hyderabad, Prof. Aisha Mahmood Faruqi, who spoke on the establishment of Osmania University and its syllabi on Islamic Studies. She was followed by the assistant professor of Islamic Studies, Jamia Millia Islamia, Dr. Mohd. Usama, who focused on 'The role of Adil Shahi Kingdom in the promotion of Islamic Studies'. The fifth paper was presented by Dr. Najmus Sahar, assistant professor of Islamic Studies, Jamia Hamdard, who discussed upon 'Maulana Abdul Majid Daryabadi's contribution to Islamic Studies'. The sixth paper, read by the research scholar in Islamic Studies, MANUU, Mohammad Aziz Alam, centered his discussion on 'The popularisation of Islamic Studies during Firoz Shah Bahmani's rule'. The last paper of the session was presented by the head of the department of Arabic, EFLU, Prof. Syed Rasheed Naseem Nadwi, who based his discussion on 'Syed Mohammad al-Husaini's commentary 'Al-Manaqat': A Study'.

Technical Session-IV

Chaired by the assistant professor of Islamic Studies, Jamia Hamdard, Dr. Waris Mazhari, the proceedings of the fourth session were conducted by Dr. Zeeshan Sarah. The total number of papers that were presented in the session stood at eight. The session began with the presentation of the paper on 'The intellectual contribution on Jamia Nizamia' by Sheikh al-Fiqh, Jamia Nizamia, Hyderabad, Mufti Ziauddin. He was followed by the former head of the department of

Islamic Studies, Jamia Millia Islamia, Prof. Mohammad Ishaq, who focused on services of Allama Shibli Nomani in the Deccan state. The third paper was presented by the assistant professor, Henry Martyn Institute, Hyderabad, Dr. Syed Wahidullah Multani on 'The growth and development of Islamic learning during the reign of Mir Usman Ali Khan' while Dr. Haziq Nadwi (Bengaluru) read his paper on the 'Promotion of knowledge during the rule of Tipu Sultan' as the fourth speaker, Dr. Atif Imran from the department of Islamic Studies, MANUU, focused on 'Islamic Studies during the rule of Imad Shahi: A review' as the fifth paper presenter. The sixth paper was presented by the research scholar in Sunni theology at AMU, Mohammad Ismail Islahi who spoke on the 'Intellectual victories of Allama Falahi in Hyderabad'. The seventh speaker was Mujtaba Farooq, research scholar, department of Islamic Studies, MANUU, who touched upon the topic 'Dairatul Maarif Al-Osmania: An Introduction'. The eighth and the last paper was read by Abdur Raqeeb, research scholar in Islamic Studies, MANUU, on the 'Contribution of Maulana Abdul Qadeer Siddiqui to the study of Islamic literature.'

Technical Session-V

The fifth session was chaired by the former head of the department of Islamic Studies, JMI, Prof. Mohammad Ishaque. The proceedings of the session were conducted by the coordinator of the distance education, MANUU, Prof. Saleh Amin. The session had a total number of 11 papers.

The first paper of the session was presented by the ex-research scholar, department of Islamic Studies, MANUU, Syed Minhaj, who presented his paper on the 'Writing of Islamic books and their publicisation during Asifjahi rule'. He was followed by the director, Abul Hasanat Islamic Research Centre, Hyderabad, Mufti Syed Misbahuddin, who centered his talk on the work on Hadith by the Mohaddis of the Deccan, Hazrat Abdullah Shah. The third paper was presented by the assistant professor, EFLU, Dr. Shahabuddin Sabili, who focused on 'An introduction of kutubkhana Asifiya'. Dr. Abrarul Haq, assistant professor, department of Islamic Studies of MANUU

at Lucknow, was the fourth paper presenter who spoke on the 'Promotion of Islamic learning during the Bahmani rule'. Dr. Mufti Mushtaq Tajawari, assistant professor of Islamic Studies, JMI was the fifth speaker who dwelt on the 'Sufis of the Deccan and their contribution to Islamic learning'. The sixth paper was read by the research scholar at department of Persian, MANUU, Syed Aijaz Husain which discussed the 'History writing and its tradition during Asifjahi reign'. Dr. Mohammad Khalid Khan, assistant professor of Islamic Studies, JMI, presented the seventh paper which was devoted to the 'Role of Jamia Darussalam, Umrabad in the promotion of Islamic Studies in south India'. While the eighth paper was read by Dr. Shakeel Ahmad, assistant professor, department of Islamic Studies, MANUU, dealt with the 'Role of Darul Tarjuma in the promotion of Islamic Studies', the ninth paper focusing on 'Growth of Islamic learning during the Bahmani rule', was presented by Prof. Saleh Amin, assistant professor of Islamic Studies and co-ordinator, distance education, MANUU. Mufti Amanat Ali Qasmi, research scholar at department of Islamic Studies, MANUU, presented the tenth paper which concentrated on 'Mahmud Gawan and Madarsa Mahmudiya'. Dr. Zeeshan Sarah, assistant professor at department of Islamic Studies, MANUU was the eleventh and the last speaker who presented her paper on the 'Islamic Studies during Qutubshahi era'.

Valedictory Session

The valedictory session was chaired by the registrar of MANUU, Prof. Siddiqui Mohd Mahmood. The secretary general IOS, Prof. Z.M. Khan and the professor of history, AMU, Prof. S. Chandni Bi were the guests of honour. In his address, Prof. Khan said that it was not only the high classes who had their history, but others too had their own history. Keeping this in view, the IOS from the very outset paid attention to the study of the history of lower strata of people as well. It focused on the life of common people, especially on the regional history. He said that compared to north India, the Deccan was generally peaceful as a result of which knowledge received a big boost and facilities for its pursuit grew at a fast pace. He stressed the need for widening the scope of research by including geographical sciences into it as geography played a decisive role in economic,

social, political, intellectual and cultural development of the area. He thanked Prof. Mohd. Fahim Akhtar Nadwi for hosting the webinar on an important topic.

Prof. S. Chandni Bi briefly discussed the scientific development during the Muslim period. She specially referred to the study of science and other disciplines during the Abbasid caliphate. In his presidential remarks, Prof. Siddiqui Mohd. Mahmood threw light on the state of study of science, intellectual pursuits and religious reciprocity. Referring to Daulatabad, he said that before the conquests of Alauddin Khalji, the region was ruled by the non-Muslim Yadava family. This family built several buildings, which included temples. Alauddin spared the temples built within buildings and constructed a structure known as Chand Minar. A masjid was later added to it. Successive Muslim rulers gave due respect to these religious structures. Continuing his speech, Prof. Mahmood noted that the father of Khwaja Gesudaraz wrote two books. These were *Tohfat Unnaseh* and *Suhagin Nama*. The latter was written in Hindi and professor of history at Dr. Babasaheb Ambedkar Marathwada University, Prof. Tailang worked on it. He termed the book as fine example of cementing the bonds of unity between Hindus and Muslims.

In his concluding remarks, Professor and head, department of Islamic Studies, MANUU, Prof. Mohd. Fahim Akhtar Nadwi, expressed happiness over the successful conduct of the webinar. He thanked Dr. M. Manzoor Alam and the entire IOS team for extending all possible cooperation to make the webinar a success. He said that all the papers presented at the webinar would be published in book form soon.

The webinar ended with a vote of thanks by Dr. Zeeshan Sarah.

**IOS on-line condolence meet over the death of
Maulana Wali Rahmani
(April 8, 2021)**

New Delhi: An on-line condolence meeting was organised by the Institute of Objective Studies on April 8, 2021 to mourn the death of the general secretary of the All India Muslim Personal Law Board and the Sajjadah Nasheen of the Khan-i-qah Rahmani, Munger, Bihar, Ameer-i-Shariah, Maulana Wali Rahmani. Presided over by the president of the All India Milli Council, Maulana Hakim Abdullah Mughesi, the condolence meet began with the recitation of a Quranic verse by Hafiz Syed Athar Husain Nadwi.

Paying his tribute to the maulana, the chairman, on-line fatwa, Mufti Arshad Farooqi said that the death of an *alim* was like the end of an age. Death was destined and could strike anyone any time, but the passing away of an *alim* was somewhat different because he was assigned a duty to spread the message of Allah and His Prophet (PBUH). His name was Wali and the life he lived had much to do with the word. Besides being head of Jamia Rahmani, Munger, he was the general secretary of All India Muslim Personal Law Board. As general-secretary of AIMPLB, he strengthened its women's wing in order to effectively put forward the Islamic point of view on the sensitive issue like divorce. He also effectively and proactively helped the Board to pursue the Babri masjid case in the apex court. He would always be remembered for his perseverance and patience, the mufti said. Bihar legislature Council member (MLC), Dr. Khalid Anwar, prayed for the maulana's *maghfirat* and urged ummah to emulate him by taking forward his mission. Former union minister for minority affairs, K. Rahman Khan, expressed his deep sorrow over the death of Maulana Wali Rahmani and described it as a great loss to the community. His deep understanding of the problems faced by the community helped him sensitise it about them. He observed that one month before his death, he called him up to inform that a meeting of the ulema was proposed to be held in Bengaluru to discuss the issues related to the ummah. He led the community in almost every field. He created Rahmani Foundation as his dream project to educate Muslim boys and girls. He said that the late maulana wanted to

establish a university to facilitate Muslim youth with higher education.

AIMPLB member and senior advocate, Zafaryab Jilani, recalled his long association with Maulana Rahmani and said that he always made a point to meet him whenever the latter happened to be in Lucknow. He said that as a member of Bihar legislative council for 18-long years, he felt the pulse of politics. Member of AIMPLB and chairman, Islamic Centre of India, Lucknow, Maulana Khalid Rashid Firangimahli, observed that Maulana Rahmani's death came as shock not for the Indian Muslims, but also to the entire Muslim world. Describing him as a towering personality, he said that the maulana devoted his whole life to the cause ummah. His contribution as Ameer-i-Shariah and the general-secretary of the AIMPLB had been remarkable. He was actively involved in the drafting of the proposed Waqf Act and it was due to his unceasing efforts that the madarasas were exempted from the Right to Education Act. His Rahmani-30 vision was a milestone in the field of education as many students belonging to the minority Muslim community took competitive examinations through this initiative, Maulana Firangimahli added. *Amir*, Jamat-i-Islami Hind, Syed Sa'adatullah Husaini, described Maulana Rahmani's death as a big loss to the community. It was tragic that the deaths due to Corona-19 had become routine. His death had created a void that was difficult to fill. He commented that the maulana was known for his candour and fortitude. Initiated by the Rahmani Foundation his vision Rahmani-30 was his brain-child that encouraged Muslim youth to take up competitive examinations for a better career, he noted.

Senior advocate of Mumbai high court and a member of the AIMPLB, Yusuf Hatim Muchhala, remarked that his death was a personal loss to him as his association with the maulana was about 30 years old. He was competent to understand the fundamentals of Islam and that was the reason why he never had a dogmatic view of it. He had a practical wisdom of the issues facing the community. While praying for him an elevated position in Jannah, he pledged full cooperation to his successor as the general-secretary of the Muslim personal law board, Maulana Khalid Saifullah Rahmani. President of

the All India Muslim Majlis-e-Mushawarat, Navaid Hamid, praised him for possessing a number of good qualities that could have made a complete volume. He had a farsighted political vision that made him fully aware of the prevailing scenario. Ever since he took up as the general-secretary of the AIMPLB in 2016, he strove to make it more functional.

Vice-president of the All India Milli Council and member of AIMPLB, Maulana Anisur Rahman Qasmi said that he knew Maulana Rahmani since 1980 when he was studying in Darul Uloom, Deoband. It was due to the maulana that he was associated with Imarat-e-Shariah, Bihar, Odisha and Jharkhand. He observed that the maulana worked at the Imarat-e-Shariah for 30-long years where he was its Sajjadah Nasheen (in-charge). He used to regularly give lectures on Hadith. His writings were unbiased and logical. He was a regular participant in the meetings of the personal law board and was always willing to shoulder every responsibility bequeathed to him. The maulana served as an MLC uninterruptedly for 20 years and became the deputy chairman of the House. This helped him understand the niceties of politics, he concluded. Assistant general secretary of the AIMC, Syed Shah Mustafa Rifai Jilani Nadwi, pointed out that Maulana Wali Rahmani combined vision-2050 of the AIMC and Rahmani-30 together for promoting education among Muslim children. As *amir* of Imarat-e-Shariah, he immensely contributed to the resolution of issues relating to Islam and Muslims. He belonged to the Jilani descent. He described the Maulana as a role-model for the community.

Member of the AIMPLB (a senior functionary of the women's wing), Dr. Asma Zahra Tayyaba, held that she received training in shariah issues under his guidance. He believed in taking the community along. He was unquestionably a milli guide and philosopher who devoted his entire life for the cause of the community. *Amir* of Jamiat Ahle-Hadis, Hind, Maulana Asghar Ali Imam Mehdi Salafi Madani, suggested that a seminar on his life and works be organised to remember his services to the Muslim community. His death was an irreparable loss to the cause of ummah, he always championed. He had a long association with the maulana whose multi-dimensional

personality endeared him to the community. A chain of institutions he created were a living testimony to his concern for the education of the deprived and means less Muslim boys, Maulana Salafi said. Member of Bihar Legislative Assembly from Kishanganj, Akhtar-ul-Imam, expressed grief that a number of ulema had left this mundane world during the current pandemic. Maulana Rahmani was a great visionary and had guts to call a spade a spade. Khankah-i-Rahmania under his stewardship played an import role in preventing Qadiyanisim from spreading misinformation about Islam. He held that the maulana was politically well informed.

President of the AIMPLB, Maulana Syed Rabey Hasani Nadwi, observed that the Muslim community benefited from Maulana Rahmani a lot and prayed to Allah to bless it with a suitable replacement to fill the vacuum created by his death. He was an *alim* with several capabilities which stood him in good stead. He hoped that the new generation would benefit from his experiences. Maulana's grandfather played a crucial role in the establishment of Nadwatul Ulema. He called for taking a path that could be beneficial for both the Muslim community and Islam. Maulana Shamshad Rahmani, Naib *Amir*, Imarat-i-Shariah, Bihar, Orissa and Jharkhand, held that the maulana spent his entire life for the well-being of the community. He used his money and the resources for the sake of economically weak Muslims who lagged behind in education. He served as MLC since 1974 and made it a mission to help everyone in need. He had a number of disciples who treated him as their patron. Under the new education policy, he raised the issue of education of Muslims. The maulana wanted a uniform school system based on Islamic education for all the three states under the Imarat-i-Shariah, he added. Member of AIMPLB and assistant secretary general of the IOS, Prof. Haseena Hashia likened him to a voice that became silent forever. He succeeded Maulana Nizamuddin as the general secretary AIMPLB and very ably discharged his responsibilities. Every moment of his life was devoted to the cause of the community. She said that Rahmani Super-30 was his dream project that helped the youth fulfill their urge for educational development.

Vice-chancellor of Maulana Azad University, Jodhpur and Professor emeritus, Jamia Millia Islamia, Prof. Akhtarul Wasey pointed out that Maulana Rahmani was an epitome of truth and was never found wanting on this score. By creating Rahman-30, he sought to arm new generation with modern education. Recalling his sixty year-long association with the maulana, he said that as a member of the Upper House, he always raised minority issues with fortitude. He lent a helping hand to the Aligarh Tahreek in Bihar. He was always ahead of others in matters relating to the community, Prof. Wasey concluded. Secretary-general of the Islamic Fiqh Academy and officiating general-secretary of the AIMPLB, Maulana Khalid Saifullah Rahmani described Maulana Rahmani's death as a big loss to Muslim ummah. He said that he (Maulana Khalid Saifullah Rahmani), learnt the translation of the Qur'an from him. He treated the maulana as his teacher as his personality was discernible. He had thorough knowledge of Islamic Fiqh as well as deep understanding of current politics. He was influenced from the maulana while studying at Jamia Rahmani due to his courage. He used to speak on sensitive issues fearlessly and judiciously. He never shied away from speaking the truth. The system of *Darul Qaza* came into existence due to his efforts. By introducing Rahman-30 and setting up Rahmani Foundation, he created a revolution in the field of education. His tenure as general-secretary of AIMPLB was cut short by his untimely death, Maulana Saifullah said.

Speaking as patron of the condolence meet, the chairman of the IOS, Dr. M. Manzoor Alam insisted that he learnt a lot from the maulana when he was an MLC. They often met and exchanged views on a variety of subjects. He had a strong grip over the prevailing situation in the country. He always laid stress on education because, according to him, only knowledge could strengthen the understanding and practice of Islam. He was a well-informed alim who kept himself posted of latest political developments. He said that besides working for the uplift of the Muslim community, efforts should be made to restore the lost human glory. Plans should be so formulated that even the minutest details were not left untouched. He asked the Imarat-i-Shariah to compile his writings and prepare a book on him that should contain account of his works. He said that instead of

confining within the four walls of a house, Muslim intellectuals must seriously think over finding ways for preserving the rich Islamic legacy. He concluded by stating that this was necessary because the legacy would serve as torch-bearer of the community. Presiding over the condolence meet, the president of the AIMC, Maulana Abdullah Mughesi said that he knew the maulana for the last 40 years. He led the community with a pragmatic approach and farsightedness. He possessed a magnetic personality that saw him succeed in every field he entered. He said that the maulana left the world without finishing the task he took upon himself to complete.

The condolence meet ended with *dua* for the *maghfirat* of the maulana.

In-charge of Urdu section, IOS, Maulana Shah Ajmal Farooque Nadwi conducted the proceedings. He also extended a vote of thanks to the participants.

**IOS Condolence on the demise of Prof. Ishtiyaque Danish
(April 16, 2021)**

New Delhi, April 16: With immense grief and sorrow, the Chairman, office-bearers, and members of staff of the Institute of Objective Studies, New Delhi, offers its condolence on the sad demise of Prof. Ishtiyaque Danish, who passed away today morning due to cardiac arrest at Majeedia Hospital. He was also infected with COVID-19.

Prof. Danish was finance secretary of the Institute. He was also member of IOS governing council, general assembly and was the editor of Newsletter as well as its bi-annual Journal Journal of Objective Studies.

A former professor of Islamic Studies and West Asian Studies in the department of Islamic Studies, Jamia Hamdard, Prof. Danish had been instrumental in redesigning the syllabus of Islamic studies and introducing several modern subjects like Islam and Globalization, Islam and Multiculturalism, Islam and Promotion of Knowledge, Human Rights in Islamic and International laws, Islam and Modernity etc. He had also been instrumental in introducing smart classes and using technology in teaching Islamic Studies.

May Allah accept all his good deeds, bless him with the choicest place in the heaven and grant sabr to all of us to bear this loss. Aameen.

**IOS on-line condolence meet over the death of
Prof. Ishtiyaque Danish
(April 20, 2021)**

New Delhi: The Institute of Objective Studies organized an on-line condolence meet to mourn the death of the former professor of Islamic Studies, Jamia Hamdard and the finance secretary of the Institute, Prof. Ishtiyaque Danish on April 20, 2021. Presided over by the chairman of the IOS, Dr. Mohammad Manzoor Alam, the proceedings of the meeting were conducted by the in-charge of Urdu section, Maulana Shah Ajmal Farooq Nadwi.

Speaking as a special guest, the *naẓīm* of Jamiatul Falah, Bilariaganj, Azamgarh, Maulana Mohammad Tahir Madni, observed that several Muslim scholars left this mundane world recently. Referring to the personality of Prof. Ishtiyaque Danish, the maulana said that he was the confluence of oriental and occidental knowledge. Besides being an expert on Islamic Studies, he was well-versed in West Asian affairs and Islam in the modern world. His areas of interest included Islam and globalization, and issues concerning West Asia. He authored about one dozen books in Urdu and English. He visited several countries to attend conferences and read papers. He believed in disseminating knowledge and this was the reason why he used to encourage the new generation to acquire it from all sources. He took time off to compose Urdu poems which showed his interest in literature. He published a collection of Urdu poems called 'Shor-e-Khamoshi'. The maulana said that he was affectionately associated with his family members and close relations. He suggested that Prof. Danish's unpublished works should be brought out in book form. The vice-chancellor of NALSAR University, Hyderabad, Prof. Faizan Mustafa said that Prof. Danish was his senior at Aligarh Muslim University. He wrote well and his ability to edit the text was superb. He edited the Newsletter and the Journal of Objective Studies brought out by the Institute of Objective Studies for several years. It was sheer injustice with him that he was compulsorily retired by Jamia Hamdard's management, though he was amongst the top three of the institution. He regretted that the top scholars were sometimes treated very shabbily by the community. Ordinarily, competent

people were ignored in selection to important bodies. He said that Prof. Danish sent the papers relating to his compulsory retirement from Jamia Hamdard to him a few days before his death. But he could not spare time to go through the papers and give legal advice to him. Despite being an Islamic scholar, he was best at English novel writing. He disclosed that at one point of time, Prof. Danish urged him to take up the vice-chancellorship of Jamia Hamdard.

Vice-chancellor of Maulana Azad University, Jodhpur and Professor Emeritus, Jamia Millia Islamia, Prof. Akhtarul Wasey, noted that the Covid-19 pandemic had forced the people to only mourn the death of their dear and near ones without taking their bodies to the graveyard for burial. Paying his tribute to Prof. Danish, he said that he imbibed both past and present. He excelled in prose as well as poetry. He explained how Islam could play a role in today's global perspective. It was regrettable that knowledge was not receiving as much attention as it should have received. He thanked the Jamia Hamdard Chancellor Mr. Hamid Ahmed, for having a re-look at his dismissal from the university. He urged the IOS chairman Dr. Mohammad Manzoor Alam to consider Prof. Danish's name for the IOS Lifetime Achievement Award. Prof. Mohammad Saud Alam Qasmi, professor of theology, Aligarh Muslim University, pointed out that a pandemic snatched several scholars, close relatives and dear ones. Referring to Prof. Danish, he said that he was industrious possessed rare qualities. His honesty was no longer a secret and the straightwardness with which he spoke, paid him dearly. He never kept the outcome of his researches and knowledge confined to himself. Rather he transferred them to his students. He seconded Prof. Wasey in advocating IOS Lifetime Achievement Award for Prof. Danish. He concluded by remarking that he established a connect between Islam and the West.

Professor in the department of Islamic Studies, Jamia Millia Islamia, Prof. Iqtidar Mohd. Khan, commented that Prof. Danish was equally popular among seniors and the juniors. His circle of friends was very wide as he kept himself above differences among different schools of thought. His knowledge was research based and did not belong to any particular school of thought. He studied at a madrasa and went to

Aligarh for higher studies. At Aligarh, he got an opportunity to study western culture and thought. He did not allowed himself to be swayed by a particular school of thought. He was very strict by nature but very soft by heart. It was in his habit to help others. He wrote several plays and film scripts. He was credited with writing a number of poems in Urdu, besides prose. Prof. Khan too pleaded for the IOS Lifetime Achievement Award for him. Professor of political science, AMU, Prof. Arshi Khan, pointed out that he knew Prof. Danish since 1993. He recalled his association with Prof. Danish at Jamia Hamdard. He was not sensitive to the loss and always accepted it with patience. He was a victim of machinations that led to his discharge from service at Jamia Hamdard. But ultimately truth prevailed and he was re-instated at his post. He died before he could enjoy the benefits of re-instatement. He was very clean-hearted and never nursed a grievance against anybody. He was very intelligent sharp and farsighted. He was insightful too, Prof. Khan added.

Prof. Towqeer Alam Falahi, professor, department of Sunni theology, AMU, observed that he knew Prof. Danish since 1979. He was a jewel of a man who lived for others. Bold and forthright, he had the heart of a noble soul. He did not hesitate to call a spade a spade. Hospitable to the core, he always welcomed guests who visited his place. Prof. Alam said that he would contribute an article on Prof. Danish if the IOS planned to bring out a book on him.

Prof. Mirza Asmer Beg, professor of political science, AMU, held that Prof. Danish was a man of principles who never compromised on them. He risked his job for the sake of truth and never deviated from the course he set for himself. He recalled that his association with Prof. Danish grew stronger during his stay in the same complex in which he lived. Prof. Asim Siddiqui from AMU, remarked that Prof. Danish possessed rare quality of helping others and fighting for a just cause. He was a good host and entertaining guests always gave him a sense of satisfaction. He asked his admirers to impress upon the Jamia Hamdard's administration to restore his pension and other pensionary benefits, Prof. Siddiqui said.

Head of the department of Islamic Studies, MANUU, Prof. Mohd. Fahim Akhtar Nadwi, observed that Prof. Danish did M.A. in English literature and undertook a visit to London where he saw the West from close quarters. He possessed a multi-dimensional personality which was reflected from his writings. It was due to his deep study that he had grasp over several subjects. He had a strong power of expression that impressed others. Always zealous of doing something new, he was a votary of multi-culturalism. He regularly posted his views on a variety of subjects on social media platforms. Never hesitant to favour his students by recommendations, he was an asset for the IOS. Prof. Nadwi emphasized that his incomplete works should be taken up for completion. Dr. Syed Qasim Rasool Ilyas, president of the Welfare Party of India, said that he had a 40-year old association with Prof. Danish. He described Prof. Danish as a scholar and researcher of a high caliber. Besides Urdu, he had a good command over English. His couplets in Urdu were simple but very deep. He said that the current scenario was very painful as many intellectuals had left the world.

Senior Urdu journalist and voice of America (Urdu Service) representative in India, Suhail Anjum, said that he came to know of his collection of poems called ‘Shor-e-Khamoshi’ in 2015. He did review of his 600-page book, but it could not see the light of the day. He was an expert on the Middle East and he (Suhail Anjum) used to consult him while planning to write on the subject. His sudden death was a personal loss for him, he added. Dr. Najmus Sahar, assistant professor of Islamic Studies, Jamia Hamdard, suggested that the life and works of Prof. Danish should be brought out in book form. He meted out equal treatment to all his students. He was very sympathetic to them and ever ready to help in whatever way he could, she said.

Prof. Danish’s elder son, Nibras Danish said that he came to know of his father’s dismissal from Jamia Hamdard only last year. Despite being out of service, he never made the family feel of it. He never allowed the financial crisis to reflect on the family. He expressed his resolve to follow the path shown by his father and do something tangible to perpetuate his memory.

The secretary general of the IOS, Prof. Z. M. Khan, described the death of Prof. Danish as a big loss and said that it was like a full stop. He remarked that two major incidents in the past hundred years had shaken the country most and caused the maximum human loss. They were, the partition of India in 1947 and the Covid-19 pandemic. He referred to Prof. Danish's half an hour speech on the state of Muslims in the world at AMU and said that he was virtually weeping while speaking on the subject. Prof. Danish was very bold and never compromised on principles, he added. Assistant Secretary General of the IOS, Prof. Haseena Hashia commented that Danish's departure from this world came as shock to everybody who was associated with him. He was an *alim*, intellectual and a star of Islamic Studies. He received his early education at a madrasa and did post-graduation in English literature. He was a confluence of oriental and western studies. In his death, the IOS suffered irreparably, she remarked.

Member of the IOS general assembly, Major Zahid Husain recalled that he listened to his last lecture at the programme in Chennai. Prof. Danish's friend Rizwan Falahi, speaking from London said that he met him in London where he spent a year to complete his project. He praised him for being upright and a thorough gentleman.

The chairman of the IOS, Dr. M. Manzoor Alam, in his presidential remarks said that only Allah knew the longevity of a man and his usefulness for the world. Thus, one should try to spread knowledge as far as he could. Referring to the contribution of Prof. Danish, he said that Prof. Danish was responsible for starting several projects in the IOS. One of his brain-child was the project on Quranic values. He assured that all the projects started by him would be completed by the IOS. He said that today's challenges should be faced by using knowledge as a tool. He maintained that his students desirous of working on him were welcome to contact the IOS for support. He also called for undertaking a study of the impact of Covid-19 on human behaviour and its effect on social and economic life. He announced that a committee would be constituted to suggest the modalities for publishing the unpublished work of Prof. Danish. He said that the project on Quranic values would continue to do its job as earlier. He informed that all the suggestions made at the

condolence meet on Prof. Danish would be placed before the main body of the IOS to take a call. His death had definitely created void that might hopefully be filled by one of his students. He also announced that Prof. Danish's lecture on Islam and contemporary challenges delivered at Maulana Azad University, Jodhpur, would be published in book form.

The condolence meet ended with the *Dua* for the *magfirat* of Prof. Danish and a raised status for him in *Jannah*. Prof. Haseena Hashia proposed a vote of thanks to all participants.

**IOS Condolence on the demise of Prof. Refaat Ali Khan
(June 9, 2021)**

New Delhi, June 9: With immense grief and sorrow, the Chairman, office-bearers, and members of staff of the Institute of Objective Studies, New Delhi, offers its deep condolences on the sad demise of Prof. Refaat Ali Khan, who passed away yesterday evening at his residence at New Delhi.

Prof. Refaat Ali Khan was deeply associated with Institute of Objective Studies, New Delhi, for a long time. He was former Vice-Chairman of IOS and also looking after the academic projects of the Institute. He was the General Editor of the three volumes published by the Institute '*The Role of Muslims in the Indian Freedom Struggle 1857-1947.*'

Born in 1939, Prof. Khan studied at Aligarh Muslim University, Aligarh. Initially he worked for Indian National Science Academy, New Delhi. He worked with Professor A Rahman's project '*Science and Technology in Medieval India*'. This was the first major work on the contribution of Indian Muslims to science and technology. Professor Refaat Ali Khan taught history at Aligarh Muslim University, Aligarh, Jamia Millia Islamia, New Delhi and Maulana Azad College at Aurangabad.

May Allah accept all his good deeds, bless him with the choicest place in the heaven and grant sabr to all in the grieved family and us to bear this loss. Aameen.

SOME IMPORTANT NEW PUBLICATIONS OF IOS

1. **Hindu Tolerance: Myth and Truth**
by Prof. Jaleel Haque
2. **Waqf Laws and Management**
by Syed Khalid Rasheed
3. **Role of Muslims in the Freedom Struggle Vol. I (Delhi)**
by Prof. Zafar Ahmad Nizami (Price: Rs. 995)
4. **Role of Muslims in the Freedom Struggle Vol. II (Tamil Nadu, Kerala & Karnataka)**
by Dr. J. Raja Mohammad and Mujeeb Asbraf (Price: Rs. 925)
5. **The Role of Muslims In The Indian Freedom Struggle 1857-1947 Vol. III**
by Dr. Shaikatullah Khan (Price: Rs. 895)
6. **An Encyclopedic Compendium of Muslim Communities in the World Vol. I**
by Dr. M.K.A. Siddiqui (Price: Rs. 699)
7. **An Encyclopedic Compendium of Muslim Communities in the World Vol. II**
by Javed A. Siddiqui (Price: Rs. 1195)
8. **Development and Islam**
by Ausaf Ahmad (Price: Rs. 595)
9. **Essays in Sociology Muslims in Manipur**
by Mobd Shakil Ahmed (Price: Rs. 255)
10. **Hanuman Gurhie Ayodhya Incident, 28th July, 1855 (Root Cause of Babari Masjid Dispute)**
by Mrs. Surinder Kaur and Sher Singh LAS (Price: Rs. 295)
11. **Muslim Women and Global Challenges**
by Zainab Alhwani (Price: Rs. 345)
12. **The Elements of Bias in Social Science Research**
by Ausaf Ahmad (Price: Rs. 595)
13. **The Islamic World**
by Prof. A. R. Momin (Price: Rs. 749)
14. **Readings on Minorities: Perspectives and Documents Vol. I- IV**
by Prof. Iqbal A. Ansari (ed.) (Price: Rs. 2070/-)
15. **Protection, Maintenance & Development of Awqaf in India (with Special Reference to Rajasthan)**
by Prof. S. Khalid Rashid (Price: Rs. 350/-)

Orders may be placed at :

Qazi Publishers & Distributors

B-35, Nizamuddin West, New Delhi-110013 (India)

Ph: +91-11-24352732; Fax: +91-11-24352048

Email: qazipublishers@yahoo.com

ABOUT RELIGION AND LAW REVIEW

The *Religion and Law Review* (RLR) is a peer reviewed legal periodical published by the Institute of Objective Studies, New Delhi. It covers scholarly discussions on various aspects of religion, law and other socio-legal issues. The periodical accords particular importance to the study of issues and events which are of contemporary concern, having a direct or indirect bearing on situations of minor or major religious groups and other underprivileged sections of the society.

The RLR entertains all significant contributions from scholars of law and allied disciplines on relevant themes. It encourages diverse opinions on different issues to make possible objective analysis of the problems and possible solutions. Contributions on important aspects of law, like environment, human rights and administration of justice are entertained in addition to religion oriented articles and comments.

Objectives of the Journal

The objectives of the RLR are:

1. To promote research on basic legal and social issues;
2. To provide a forum for discussion on various aspects of law and religion;
3. To highlight the issues relating to freedom of religion in different legal systems;
4. To study the contribution of religion to law;
5. To examine the nature and extent of regulation of religious activities and religious institution by law;
6. To analyse state action *vis a vis* religious groups; and
7. To discuss issues regarding religion and human rights.

Guidelines for Contributors

The RLR welcomes contributions from all interested students and scholars of law, religion and society in the form of articles, notes,

case comments and book reviews. The size of contributions should not exceed 35 typed pages of A-4 size or 10,000 words. Margins should be left at each side of the page. Typing of both text and footnotes should be double-spaced. References should be given in footnotes. The footnotes should be numbered consecutively throughout the paper. The References of books and articles should be in the following format:

Name of the Author, “Name of the Book”, Page(s), (Year).
Name of the Author, “Name of the Article,” Name of the Journal,
Vol. (Year), Pages.

A hundred words abstract which summarizes the main ideas of the paper should be submitted by all contributors.

The full name of the writer, his present affiliation and complete correspondence address should be included.

All articles will be referred to experts in the relevant field.

The Editor reserves the right to make editorial revisions wherever found necessary.

All responsibilities for opinions expressed and accuracy of facts vest exclusively with the authors and not with the editor or editorial board.

All correspondence should be addressed to the Editor.

Editor

RELIGION AND LAW REVIEW

Post Box No. 9725
162, Jogabai Main Road
Jamia Nagar
New Delhi-110025

ABOUT THE INSTITUTE OF OBJECTIVE STUDIES

The Institute of Objective Studies was founded in March, 1986 to promote purposive research to generate understanding and awareness of conceptual issues and current problems and highlight the ethical and moral dimensions of social dynamics.

Objectives

- To set up institutes, centres and research facilities in various fields of social sciences.
- To undertake research on problems and issues of social importance.
- To provide a forum for contact and exchange of views among social scientists.
- To cooperate and coordinate with all individuals, organisations and institutions that are working for identical objectives at national or international level.
- To award fellowships and scholarships for promoting aims and objectives of the IOS.
- To publish books, periodicals, monographs and project reports for wider dissemination of Institute's programmes and point of view.

Areas of Research

It includes all major areas of social sciences and humanities viz: philosophy, religion, history, sociology, economics, political science, anthropology and education. It also includes public administration, human geography, population studies, inter-communal and international relations, constitutional studies, law, criminology, media studies, linguistics, ethnology, social eugenics and psychology etc.

Research activities

The IOS entertains applications for partial or full assistance for research schemes and projects which meet the Institute's goals and

objectives. All applications are dealt with strictly on merit basis. Funding is generally available for a two-year period but exceptions can be made in case of major projects.

The IOS is amenable for cooperation with other institutes and within the purview of its research interests. The IOS also accepts research assignments on behalf of other agencies as long as their research priorities and purposes and in harmony with its own.

Financial Resources

The IOS is an autonomous, nonpolitical and public funded institution. Its major sources of funding are: membership fees, public donations, charitable grants and incomes from investments and the sale of its publications.

The IOS is open to private sector funding and charges fees for outside research assignments.

Organisational Structure

The organisational structure of the IOS, as its base, has a General Assembly comprising all its members who elect office-bearers and executive members of the Governing Council. The regional work is organised under regional committees appointed by the Chairman.

Address for correspondence:

INSTITUTE OF OBJECTIVE STUDIES

P.O. Box No. 9725
162, Jogabai Main Road
Jamia Nagar
New Delhi – 110025
India

Phone: [91-11] 26981187, 26987467, 26989253

Fax: [91-11] 26981104

E-mail: ios.newdelhi@gmail.com

Website: www.iosworld.org

JOURNAL OF OBJECTIVE STUDIES

The Institute of Objective Studies, New Delhi, publishes this biannual journal to further strengthen its multifarious research activities and to enlist wider participation in its ongoing scholarly discussions on issues of vital social concern.

The *Journal of Objective Studies* encourages publication of different points of view so that an objective analysis of various aspects of social realities could become possible.

Subscription Rates

Individual

Year	India		SAARC		Other Countries		Single Copy		
	Per year (Rs.)	Total (Rs.)	Per year (Rs.)	Total (Rs.)	Per year (Euro)	Total (Euro)	INDIA (Rs.)	SAARC (Rs.)	Other Countries (Euro)
1	500	500	550	550	50	50	400	450	40
3	350	1,050	385	1,155	35	105			
5	300	1,500	330	1,650	30	150			
10	250	2,500	275	2,750	25	250			

Institutional

Year	India		SAARC		Other Countries		Single Copy		
	Per year (Rs.)	Total (Rs.)	Per year (Rs.)	Total (Rs.)	Per year (Euro)	Total (Euro)	INDIA (Rs.)	SAARC (Rs.)	Other Countries (Euro)
1	700	700	800	800	70	70	400	450	40
3	500	1,500	560	1,680	55	165			
5	420	2,100	480	2,400	45	225			
10	350	3,500	400	4,000	35	350			

For further details please contact

Genuine Publications and Media Pvt. Ltd.

Distributors of Journal of Objective Studies

B-35, Nizamuddin West

New Delhi-110013 (India)

Ph: +91-11-24352732; Fax : +91-11-24352048

E-mail: genuinepublication@yahoo.co.in

RELIGION AND LAW REVIEW

Mode of Citation for This Volume

XXX RLR 2021

Subscription Rates

Individual

Year	India		SAARC		Other Countries		Single Copy		
	Per year (Rs.)	Total (Rs.)	Per year (Rs.)	Total (Rs.)	Per year (Euro)	Total (Euro)	INDIA (Rs.)	SAARC (Rs.)	Other Countries (Euro)
1	500	500	550	550	50	50	400	450	40
3	350	1,050	385	1,155	35	105			
5	300	1,500	330	1,650	30	150			
10	250	2,500	275	2,750	25	250			

Institutional

Year	India		SAARC		Other Countries		Single Copy		
	Per year (Rs.)	Total (Rs.)	Per year (Rs.)	Total (Rs.)	Per year (Euro)	Total (Euro)	INDIA (Rs.)	SAARC (Rs.)	Other Countries (Euro)
1	700	700	800	800	70	70	400	450	40
3	500	1,500	560	1,680	55	165			
5	420	2,100	480	2,400	45	225			
10	350	3,500	400	4,000	35	350			

For further details please contact

Genuine Publications and Media Pvt. Ltd.

Distributors of Religion and Law Review

B-35, Nizamuddin West

New Delhi-110013 (India)

Ph: +91-11-24352732; Fax : +91-11-24352048

E-mail: genuinepublication@yahoo.co.in