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Editor

Prof. M. Afzal Wani



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Editor

Professor M. Afzal Wani

Ex- Dean, University School of Law and Legal Studies, GGS

Indraprastha University, Delhi

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

info@iosworld.org

Consultative Council, RLR

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EMPOWERMENT OF MUSLIMS THROUGH LIBERTY TO SPEAK: BETWEEN MEDIA- ENCOUNTERS AND HOPE

*Prof. M. Afzal Wani**

I. Liberty to Speak

Understanding the Extent and Limits

Freedom of Speech and Expression is guaranteed by Article 19(1) (a) of the Constitution of India, which states: "Article 19. Protection of certain rights regarding freedom of speech, etc.- (1) All citizens shall have the right-(a) to freedom of speech and expression;...." Article 19(2) states: "Nothing in sub-clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality or in relation to contempt of court, defamation or incitement to an offence." The Preamble of the Constitution of India inter alia speaks of liberty of thought, expression, belief, faith and worship. It also says that India is a sovereign democratic republic. It cannot be over emphasised that when it comes to democracy, liberty of thought and expression is a cardinal value that is of paramount significance under our constitutional scheme.¹

The Supreme Court of India has many times referred to the significance of freedom of speech and expression from the point of view of the individual liberty as well as its vitality to a democratic form of government. In the case of *Romesh Thappar v. State of Madras*,²

* Ex-Dean, University School of Law and Legal Studies, GGS IP University, Delhi. The article is a chapter from the author's book on *Constitutional Commitments to Muslim Empowerment* (New Delhi, 2023).

¹ See generally *Shreya Singhal vs U.O.I.* on 24 March, 2015; Bench: Chelameswar, Rohinton Fali Nariman JJ.

² [1950] S.C.R. 594 at 602 .

the Court observed that the freedom of speech is at the foundation of any democratic organisation. In *Sakal Papers (P) Ltd. & Ors. v. Union of India*,³ a Constitution Bench of the Court stated that the freedom of speech and expression of opinion is of paramount importance under a democratic constitution which envisages changes in the composition of legislatures and governments and must be preserved. In a separate concurring judgment Beg, J. said, in *Bennett Coleman & Co. & Ors. v. Union of India & Ors.*,⁴ that the freedom of speech and of the press is the Ark of the Covenant of Democracy because public criticism is essential to the working of its institutions.⁵ In *S. Khushboo v. Kanniamal*,⁶ this Court stated, in paragraph 45 that the importance of freedom of speech and expression though not absolute was necessary as we need to tolerate unpopular views. This right requires the free flow of opinions and ideas essential to sustain the collective life of the citizenry. While an informed citizenry is a pre-condition for meaningful governance, the culture of open dialogue is generally of great societal importance.⁷

In his famous dissent in *Abrams v. United States*,⁸ Justice Holmes says:

"But when men have realized that time has upset many fighting faiths, they may come to believe even more than they believe the very foundations of their own conduct that the ultimate good desire is better reached by free trade in ideas—that the best test of truth is the power of thought to get itself accepted in the competition of the market, and that truth is the only ground upon which their wishes safely can be carried out. That at any rate is the theory of our Constitution."

In *Whitney v. California*,⁹ a famous judgment, Justice Brandeis observed:

³ [1962] 3 S.C.R. 842 at 866.

⁴ [1973] 2 S.C.R. 757 at 829.

⁵ *Shreya Singhal v. U.O.I.*, See generally *Supra* note 1.

⁶ (2010) 5 SCC 600.

⁷ See *Shreya Singhal vs U.O.I.*

⁸ 250 US 616 (1919).

⁹ 71 L. Ed. 1095.

"Those who won our independence believed that the final end of the State was to make men free to develop their faculties, and that in its government the deliberative forces should prevail over the arbitrary. They valued liberty both as an end and as a means. They believed liberty to be the secret of happiness and courage to be the secret of liberty. They believed that freedom to think as you will and to speak as you think are means indispensable to the discovery and spread of political truth; that without free speech and assembly discussion would be futile; that with them, discussion affords ordinarily adequate protection against the dissemination of noxious doctrine; that the greatest menace to freedom is an inert people; that public discussion is a political duty; and that this should be a fundamental principle of the American government. They recognized the risks to which all human institutions are subject. But they knew that order cannot be secured merely through fear of punishment for its infraction; that it is hazardous to discourage thought, hope and imagination; that fear breeds repression; that repression breeds hate; that hate menaces stable government; that the path of safety lies in the opportunity to discuss freely supposed grievances and proposed remedies; and that the fitting remedy for evil counsels is good ones. Believing in the power of reason as applied through public discussion, they eschewed silence coerced by law-the argument of force in its worst form. Recognizing the occasional tyrannies of governing majorities, they amended the Constitution so that free speech and assembly should be guaranteed.

Fear of serious injury cannot alone justify suppression of free speech and assembly. Men feared witches and burnt women. It is the function of speech to free men from the bondage of irrational fears. To justify suppression of free speech there must be reasonable ground to fear that serious evil will result if free speech is practiced. There must be reasonable ground to believe that the danger apprehended is imminent. There must be reasonable ground to believe that the evil to be prevented is a serious one. Every denunciation of existing law

tends in some measure to increase the probability that there will be violation of it. Condonation of a breach enhances the probability. Expressions of approval add to the probability. Propagation of the criminal state of mind by teaching syndicalism increases it. Advocacy of law breaking heightens it still further. But even advocacy of violation, however reprehensible morally, is not a justification for denying free speech where the advocacy falls short of incitement and there is nothing to indicate that the advocacy would be immediately acted on. The wide difference between advocacy and incitement, between preparation and attempt, between assembling and conspiracy, must be borne in mind. In order to support a finding of clear and present danger it must be shown either that immediate serious violence was to be expected or was advocated, or that the past conduct furnished reason to believe that such advocacy was then contemplated." (at page 1105, 1106)

This leads us to a discussion of what is the content of the expression "freedom of speech and expression". There are three concepts which are fundamental in understanding the reach of this most basic of human rights. The first is discussion, the second is advocacy, and the third is incitement. Mere discussion or even advocacy of a particular cause howsoever unpopular is at the heart of Article 19(1)(a). It is only when such discussion or advocacy reaches the level of incitement that Article 19(2) kicks in.¹⁰ It is at this stage that a law

¹⁰ Section 10(2)(a) of the U.K. Post Office (Amendment) Act, 1935, which made it an offence to send any message by telephone which is grossly offensive or of an indecent, obscene, or menacing character. This Section was substantially reproduced by Section 66 of the UK Post Office Act, 1953 as follows:

66. Prohibition of sending offensive or false telephone messages or false telegrams, etc. If any person-

(a)sends any message by telephone which is grossly offensive or of an indecent, obscene or menacing character ;

(b)sends any message by telephone, or any telegram, which he knows to be false, for the purpose of causing annoyance, inconvenience or needless anxiety to any other person ; or

(c) persistently makes telephone calls without reasonable cause and for any such purpose as aforesaid, he shall be liable on summary conviction to a fine

may be made to curtail the freedom of speech or expression that leads inexorably to or tends to cause public disorder or tends to cause or tends to affect the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, etc. The importance of these three concepts is obvious in the fact that most of the arguments of the opponents of the right always tend to veer around the expression "public order".

In this regard, the *Shreya Singhal* judgment felt need to say 'a word about the use of American judgments in the context of Article 19(1) (a)'. "In virtually every significant judgment of this Court, reference has been made to judgments from across the Atlantic. Is it safe to do so? It is significant to notice first the differences between the US First Amendment¹¹ and Article 19(1) (a) read with Article 19(2). The

not exceeding ten pounds, or to imprisonment for a term not exceeding one month, or to both.

This Section in turn was replaced by Section 49 of the British Telecommunication Act, 1981 and Section 43 of the British Telecommunication Act, 1984. In its present form in the UK, it is Section 127 of the Telecommunication Act, 2003 which is relevant and which is as follows:-

127. Improper use of public electronic communications network. A person is guilty of an offence if he -sends by means of a public electronic communications network a message or other matter that is grossly offensive or of an indecent, obscene or menacing character; or cause any such message or matter to be so sent.

A person is guilty of an offence if, for the purpose of causing annoyance, inconvenience or needless anxiety to another, he-sends by means of a public electronic communications network, a message that he knows to be false, causes such a message to be sent; or persistently makes use of a public electronic communications network.

A person guilty of an offence under this section shall be liable, on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale, or to both.

Subsections (1) and (2) do not apply to anything done in the course of providing a programme service (within the meaning of the Broadcasting Act 1990 (c.42)).

¹¹ Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

first important difference is the absoluteness of the U.S. First Amendment - Congress shall make no law which abridges the freedom of speech. Second, whereas the U.S. First Amendment speaks of freedom of speech and of the press, without any reference to "expression", Article 19(1)(a) speaks of freedom of speech and expression without any reference to "the press". Third, under the U.S. Constitution, speech may be abridged, whereas under our Constitution, reasonable restrictions may be imposed. Fourth, under our Constitution such restrictions have to be in the interest of eight designated subject matters - that is any law seeking to impose a restriction on the freedom of speech can only pass muster if it is proximately related to any of the eight subject matters set out in Article 19(2)."¹²

The approach of the U.S. Supreme Court is reflected in the *Chaplinsky v. New Hampshire*,¹³ in which Justice Murphy delivered the opinion of the Court:

"Allowing the broadest scope to the language and purpose of the Fourteenth Amendment,¹⁴ it is well understood that the

¹² *Shreya Singhal v. U.O.I.* on 24 March, 2015.

¹³ 86 L. Ed. 1031.

¹⁴ Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

right of free speech is not absolute at all times and under all circumstances. There are certain well-defined and narrowly limited classes of speech, the prevention and punishment of which has never been thought to raise any constitutional problem. These include the lewd and obscene, the profane, the libelous, and the insulting or 'fighting' words-those which by their very utterance inflict injury or tend to incite an immediate breach of the peace. It has been well observed that such utterances are no essential part of any exposition of ideas, and are of such slight social value as a step to truth that any benefit that may be derived from them is clearly outweighed by the social interest in order and morality. 'Resort to epithets or personal abuse is not in any proper sense communication of information or opinion safeguarded by the Constitution, and its punishment as a criminal act would raise no question under that instrument.' *Cantwell v. Connecticut*,¹⁵

So far as the second apparent difference is concerned, the American Supreme Court has included "expression" as part of freedom of

Section 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two-thirds of each House, remove such disability.

Section 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this Article.[1].

¹⁵ 310 U.S. 296, 309, 310, 60 S.Ct. 900, 906, 84 L.Ed.1213, 128 A.L.R. 1352, 1035.

speech and this Court has included "the press" as being covered under Article 19(1)(a), so that, as a matter of judicial interpretation, both the U.S. and India protect the freedom of speech and expression as well as press freedom. Insofar as abridgement and reasonable restrictions are concerned, both the U.S. Supreme Court and this Court have held that a restriction in order to be reasonable must be narrowly tailored or narrowly interpreted so as to abridge or restrict only what is absolutely necessary. It is only when it comes to the eight subject matters that there is a vast difference. In the U.S., if there is a compelling necessity to achieve an important governmental or societal goal, a law abridging freedom of speech may pass muster. But in India, such law cannot pass muster if it is in the interest of the general public. Such law has to be covered by one of the eight subject matters set out under Article 19(2). If it does not, and is outside the pale of 19(2), Indian courts will strike down such law.

Viewed from the above perspective, American judgments have great persuasive value on the content of freedom of speech and expression and the tests laid down for its infringement. It is only when it comes to sub-serving the general public interest that there is the world of a difference. This is perhaps why in *Kameshwar Prasad. v. The State of Bihar*,¹⁶ this Court held:

"As regards these decisions of the American Courts, it should be borne in mind that though the First Amendment to the Constitution of the United State reading "Congress shall make no law.... abridging the freedom of speech..." appears to confer no power on the Congress to impose any restriction on the exercise of the guaranteed right, still it has always been understood that the freedom guaranteed is subject to the police power- the scope of which however has not been defined with precision or uniformly. It is on the basis of the police power to abridge that freedom that the constitutional validity of laws penalising libels, and those relating to sedition, or to obscene publications etc., has been sustained. The resultant flexibility of the restrictions that could be

¹⁶ 1962 Supp. (3) S.C.R. 369, 378.

validly imposed renders the American decisions inapplicable to and without much use for resolving the questions arising under Art. 19(1) (a) or (b) of our Constitution wherein the grounds on which limitations might be placed on the guaranteed right are set out with definiteness and precision."¹⁷

¹⁷ Two foot notes from Shreya Singhal Judgment are given here: It is quite notable:

A good example of the difference between advocacy and incitement is Mark Antony's speech in Shakespeare's immortal classic Julius Caesar. Mark Antony begins cautiously. Brutus is chastised for calling Julius Caesar ambitious and is repeatedly said to be an "honourable man". He then shows the crowd Caesar's mantle and describes who struck Caesar where. It is at this point, after the interjection of two citizens from the crowd, that Antony says-

"ANTONY- Good friends, sweet friends, let me not stir you up
To such a sudden flood of mutiny.

They that have done this deed are honourable:

What private griefs they have, alas, I know not,

That made them do it: they are wise and honourable,

And will, no doubt, with reasons answer you.

I come not, friends, to steal away your hearts:

I am no orator, as Brutus is;

But, as you know me all, a plain blunt man,

That love my friend; and that they know full well

That gave me public leave to speak of him:

For I have neither wit, nor words, nor worth,

Action, nor utterance, nor the power of speech,

To stir men's blood: I only speak right on;

I tell you that which you yourselves do know;

Show you sweet Caesar's wounds, poor poor dumb mouths,

And bid them speak for me: but were I Brutus,

And Brutus Antony, there were an Antony

Would ruffle up your spirits and put a tongue

In every wound of Caesar that should move

The stones of Rome to rise and mutiny.

ALL- We'll mutiny."

[foot note 3, para 13]; for full speech- <https://wordinfo.info/unit/3829> as on 03.9.2020 at 11.30 pm

"In its present form the clear and present danger test has been reformulated to say that:

"The constitutional guarantees of free speech and free press do not permit a State to forbid or proscribe advocacy of the use of force or of law violation except where such advocacy is directed to inciting or producing imminent lawless action and is likely to incite or produce such action." Interestingly, the

But when it comes to understanding the impact and content of freedom of speech, in *Indian Express Newspapers (Bombay) Private Limited v. Union of India*,¹⁸ Venkataramiah, J. stated:

"While examining the constitutionality of a law which is alleged to contravene Article 19 (1) (a) of the Constitution, we cannot, no doubt, be solely guided by the decisions of the Supreme Court of the United States of America. But in order to understand the basic principles of freedom of speech and expression and the need for that freedom in a democratic country, we may take them into consideration. The pattern of Article 19 (1)(a) and of Article 19 (1) (g) of our Constitution is different from the pattern of the First Amendment to the American Constitution which is almost absolute in its terms. The rights guaranteed under Article 19 (1) (a) and Article 19 (1) (g) of the Constitution are to be read along with clauses (2) and (6) of Article 19 which carve out areas in respect of which valid legislation can be made."¹⁹

The Supreme Court, in *New York Times Co. v. Sullivan*,²⁰ held that news publications could not be liable for libel to public officials unless the plaintiff meets the exacting actual malice standard in the publication of the false statement. The Court's

U.S. Courts have gone on to make a further refinement. The State may ban what is called a "true threat".

"True threats' encompass those statements where the speaker means to communicate a serious expression of an intent to commit an act of unlawful violence to a particular individual or group of individuals." "The speaker need not actually intend to carry out the threat. Rather, a prohibition on true threats protects individuals from the fear of violence and from the disruption that fear engenders, in addition to protecting people from the possibility that the threatened violence will occur. Intimidation in the constitutionally proscribable sense of the word is a type of true threat, where a speaker directs a threat to a person or group of persons with the intent of placing the victim in fear of bodily harm or death." See *Virginia v. Black* (Supra) and *Watts v. United States* 22 L. Ed. 2d. 664 at 667 [foot note 4, para 37].

¹⁸ (1985) 2 SCR 287.

¹⁹ at page 324.

²⁰ https://en.wikipedia.org/wiki/New_York_Times_Co._v._Sullivan 06.09.2020 at 1.30 pm.

decision for *The Times* was unanimous, 9–0.²¹ The rule of law applied by the Alabama courts was found unconstitutional for its failure to provide safeguards for freedom of speech and of the press, as required by the First and Fourteenth Amendments. The decision further held that even with the proper safeguards, the evidence presented in the case was insufficient to support a judgment for Sullivan. In sum the court ruled that "the First Amendment protects the publication of all statements, even false ones, about the conduct of public officials except when statements are made with actual malice (with knowledge that they are false) or in reckless disregard of their truth or falsity."²²

The decision allowed newspapers more freedom to report on the widespread chaos and police abuse during the Civil Rights Movement.

Common Law Malice

In *Sullivan*, the Supreme Court adopted the term "actual malice" and gave it constitutional significance.

The Court held that a public official suing for defamation must prove that the statement in question was made with actual malice. In his concurring opinion, Justice Black explained, "Malice, even as defined by the Court, is an elusive, abstract concept, hard to prove and hard to disprove. The requirement that malice be proved provides at best an evanescent protection for the right critically to discuss public affairs and certainly does not measure up to the sturdy safeguard embodied in the First Amendment."

The term "malice" came from existing libel law, rather than being invented in the case. In many jurisdictions, including Alabama, proof

²¹ "*New York Times Co. v. Sullivan*". Oyez. *New York Times Co. v. Sullivan* 376 U.S. 254 (1964) "Who's Who in America" 1978-1979.

²² "*New York Times v. Sullivan*". The Oyez Project at IIT Chicago-Kent College of Law. The Oyez Project at IIT Chicago-Kent College of Law. Retrieved 11 March 2014.

of "actual malice" was required for punitive damages or other increased penalties. Since a writer's malicious intent is hard to prove, proof of the writer knowingly published a falsehood was generally accepted as proof of malice, under the assumption that only a person with ill intent would knowingly publish something false. In *Hoepfner v. Dunkirk Printing Co.*,²³ similarly, the court said: The plaintiff alleges that this criticism of him and of his work was not fair and was not honest; it was published with actual malice, ill will and spite. If he establishes this allegation, he has made out a cause of action. No comment or criticism, otherwise libelous, is fair or just comment on a matter of public interest if it be made through actual ill will and malice.²⁴

In an oft-quoted line, Justice Brennan acknowledged that the actual malice standard may protect inaccurate speech, but that the "erroneous statement is inevitable in free debate, and ... it must be protected if the freedoms of expression are to have the 'breathing space' that they need to survive."²⁵ The United States, Brennan noted, is founded on the "profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open, and that it may well include vehement, caustic, and sometimes unpleasantly sharp attacks on government and public officials."²⁶

Justice Jackson in *American Communications Association v. Douds*,²⁷ are apposite:

"Thought control is a copyright of totalitarianism, and we have no claim to it. It is not the function of our Government to keep the citizen from falling into error; it is the function of the citizen to keep the Government from falling into error. We could justify any censorship only when the censors are better shielded against error than the censored."

²³ 254 N.Y. 95 (1930).

²⁴ at page 106.

²⁵ 376 U.S. 254, 272 (internal quotes omitted).

²⁶ 376 U.S. 254, 271.

²⁷ 94 L. Ed. 925.

The most significant case in last few years in India is *Shreya Singhal v. U.O.I.* decided by the Supreme Court of India on 24 March, 2015. There are many notable precedents in our judicial history concerning the subject on which have a glance here. Incidentally, some of our judgments have recognised the chilling effect of free speech as in *R. Rajagopal v. State of T.N.*,²⁸ this Court in para 19 held:

"The principle of Sullivan²⁹ was carried forward - and this is relevant to the second question arising in this case³⁰ - in *Derbyshire County Council v. Times Newspapers Ltd.*³¹, a decision rendered by the House of Lords. The plaintiff, a local authority brought an action for damages for libel against the defendants in respect of two articles published in Sunday Times questioning the propriety of investments made for its superannuation fund. The articles were headed "Revealed: Socialist tycoon deals with Labour Chief" and "Bizarre deals of a council leader and the media tycoon". A preliminary issue was raised whether the plaintiff has a cause of action against the defendant. The trial Judge held that such an action

²⁸ (1994) 6 SCC 632.

²⁹ 376 US 254 : 11 L Ed 2d 686 (1964).

³⁰ As per para 8 the following questions arose:

(1) Whether a citizen of this country can prevent another person from writing his life story or biography? Does such unauthorised writing infringe the citizen's right to privacy? Whether the freedom of press guaranteed by Article 19(1)(a) entitles the press to publish such unauthorised account of a citizen's life and activities and if so to what extent and in what circumstances? What are the remedies open to a citizen of this country in case of infringement of his right to privacy and further in case such writing amounts to defamation?

(2)(a) Whether the Government can maintain an action for its defamation?

(b) Whether the Government has any legal authority to impose prior restraint on the press to prevent publication of material defamatory of its officials? and

(c) Whether the public officials, who apprehend that they or their colleagues may be defamed, can impose a prior restraint upon the press to prevent such publication?

(3) Whether the prison officials can prevent the publication of the life story of a prisoner on the ground that the prisoner being incarcerated and thus not being in a position to adopt legal remedies to protect his rights, they are entitled to act on his behalf?

³¹ (1993) 2 WLR 449 : (1993) 1 All ER 1011, HL

was maintainable but on appeal the Court of Appeal held to the contrary. When the matter reached the House of Lords, it affirmed the decision of the Court of Appeal but on a different ground. Lord Keith delivered the judgment agreed to by all other learned Law Lords. In his opinion, Lord Keith recalled that in *Attorney General v. Guardian Newspapers Ltd.*³² popularly known as "Spycatcher case", the House of Lords had opined that "there are rights available to private citizens which institutions of... Government are not in a position to exercise unless they can show that it is in the public interest to do so". It was also held therein that not only was there no public interest in allowing governmental institutions to sue for libel, it was "contrary to the public interest because to admit such actions would place an undesirable fetter on freedom of speech" and further that action for defamation or threat of such action "inevitably have an inhibiting effect on freedom of speech". The learned Law Lord referred to the decision of the United States Supreme Court in *New York Times v. Sullivan*³³ and certain other decisions of American Courts and observed - and this is significant for our purposes-"while these decisions were related most directly to the provisions of the American Constitution concerned with securing freedom of speech, the public interest considerations which under-laid them are no less valid in this country. What has been described as 'the chilling effect' induced by the threat of civil actions for libel is very important. Quite often the facts which would justify a defamatory publication are known to be true, but admissible evidence capable of proving those facts is not available." Accordingly, it was held that the action was not maintainable in law."

In *Kameshwar Prasad v. The State of Bihar*,³⁴ Rule 4-A of the Bihar Government Servants Conduct Rules, 1956 was challenged. The rule states "No government servant shall participate in any demonstration

³² (No. 2) (1990) 1 AC 109 : (1988) 3 All ER 545 : (1988) 3 WLR 776, HL.

³³ 376 US 254 : 11 L Ed 2d 686 (1964).

³⁴ [1962] Supp. 3 S.C.R. 369.

or resort to any form of strike in connection with any matter pertaining to his conditions of service." The rule was challenged under Articles 19 (1)(a) and (b) of the Constitution. The Court followed the law laid down in *Ram Manohar Lohia* and accepted the challenge. It first held that demonstrations are a form of speech and then held:³⁵

"The approach to the question regarding the constitutionality of the rule should be whether the ban that it imposes on demonstrations would be covered by the limitation of the guaranteed rights contained in Art. 19 (2) and 19(3). In regard to both these clauses the only relevant criteria which has been suggested by the respondent-State is that the rule is framed "in the interest of public order". A demonstration may be defined as "an expression of one's feelings by outward signs." A demonstration such as is prohibited by, the rule may be of the most innocent type - peaceful orderly such as the mere wearing of a badge by a Government servant or even by a silent assembly say outside office hours - demonstrations which could in no sense be suggested to involve any breach of tranquility, or of a type involving incitement to or capable of leading to disorder. If the rule had confined itself to demonstrations of type which would lead to disorder then the validity of that rule could have been sustained but what the rule does is the imposition of a blanket-ban on all demonstrations of whatever type - innocent as well as otherwise - and in consequence its validity cannot be upheld."

The Court further went on to hold that remote disturbances of public order by demonstration would fall outside Article 19(2). The connection with public order has to be intimate, real and rational and should arise directly from the demonstration that is sought to be prohibited. Finally, the Court held:

³⁵ *The Superintendent, Central Prison, Fatehgarh v. Ram Manohar Lohia*, [1960] 2 S.C.R. 821.

"The vice of the rule, in our opinion, consists in this that it lays a ban on every type of demonstration - be the same however innocent and however incapable of causing a breach of public tranquility and does not confine itself to those forms of demonstrations which might lead to that result." (at page 384).

The Supreme Court of India has laid down the meaning of "reasonable restrictions" in *Chintaman Rao v. The State of Madhya Pradesh*,³⁶ saying: "The phrase "reasonable restriction" connotes that the limitation imposed on a person in enjoyment of the right should not be arbitrary or of an excessive nature, beyond what is required in the interests of the public. The word "reasonable" implies intelligent care and deliberation, that is, the choice of a course which reason dictates. Legislation which arbitrarily or excessively invades the right cannot be said to contain the quality of reasonableness and unless it strikes a proper balance between the freedom guaranteed in Article 19(1)(g) and the social control permitted by clause (6) of Article 19, it must be held to be wanting in that quality." In *State of Madras v. V.G. Row*,³⁷ the Court said:

"This Court had occasion in Dr. Khare's case³⁸ to define the scope of the judicial review under clause (5) of Article 19 where the phrase "imposing reasonable restriction on the exercise of the right" also occurs and four out of the five Judges participating in the decision expressed the view (the other Judge leaving the question open) that both the substantive and the procedural aspects of the impugned restrictive law should be examined from the point of view of reasonableness; that is to say, the Court should consider not only factors such as the duration and the extent of the restrictions, but also the circumstances under which and the manner in which their imposition has been authorised. It is important in this context to bear in mind that the test of

³⁶ [1950] S.C.R. 759, 763.

³⁷ [1952] S.C.R. 597.

³⁸ (1950) S.C.R. 519.

reasonableness, wherever prescribed, should be applied to each, individual statute impugned and no abstract standard, or general pattern of reasonableness can be laid down as applicable to all cases. The nature of the right alleged to have been infringed, the underlying purpose of the restriction imposed, the extent and urgency of the evil sought to be remedied thereby, the disproportion of the imposition, the prevailing conditions at the time, should all enter into the judicial verdict. In evaluating such elusive factors and forming their own conception of what is reasonable, in all the circumstances of a given case, it is inevitable that the social philosophy and the scale of values of the judges participating in the decision should play an important part, and the limit to their interference with legislative judgment in such cases can only be dictated by their sense of responsibility and self-restraint and the sobering reflection that the Constitution is meant not only for people of their way of thinking but for all, and that the majority of the elected representatives of the people have, in authorising the imposition of the restrictions, considered them to be reasonable.”³⁹

In *Mohd. Faruk v. State of Madhya Pradesh*,⁴⁰ this Court said:

“The Court must in considering the validity of the impugned law imposing a prohibition on the carrying on of a business or profession, attempt on evaluation of its direct and immediate impact upon the fundamental rights of the citizens affected thereby and the larger public interest sought to be ensured in the light of the object sought to be achieved, the necessity to restrict the citizen's freedom, the inherent pernicious nature of the act prohibited or its capacity or tendency to be harmful to the general public, the possibility of achieving the object by imposing a less drastic restraint, and in the absence of exceptional situations such as the prevalence of a state of emergency-national or local-or the

³⁹ at pages 606, 607.

⁴⁰ [1970] 1 S.C.R. 156.

necessity to maintain essential supplies, or the necessity to stop activities inherently dangerous, the existence of a machinery to satisfy the administrative authority that no case for imposing the restriction is made out or that a less drastic restriction may ensure the object intended to be achieved.”⁴¹

In *Dr. N. B. Khare v. State of Delhi*,⁴² a Constitution Bench also spoke of reasonable restrictions when it comes to procedure. It said:

“While the reasonableness of the restrictions has to be considered with regard to the exercise of the right, it does not necessarily exclude from the consideration of the Court the question of reasonableness of the procedural part of the law. It is obvious that if the law prescribes five years externment or ten years externment, the question whether such period of externment is reasonable, being the substantive part, is necessarily for the consideration of the Court under clause (5). Similarly, if the law provides the procedure under which the exercise of the right may be restricted, the same is also for the consideration of the Court, as it has to determine if the exercise of the right has been reasonably restricted.”

Now the restrictions are claimed to be more curbing for following reasons:⁴³

“(i) the reach of print media is restricted to one state or at the most one country while internet has no boundaries and its reach is global;

(ii) the recipient of the free speech and expression used in a print media can only be literate persons while internet can be accessed by literate and illiterate both since one click is needed to download an objectionable post or a video;

⁴¹ at page 161.

⁴² [1950] S.C.R. 519.

⁴³ Shreya Singhal Judgment, para 27.

(iii) In case of television serials [except live shows] and movies, there is a permitted precensorship which ensures right of viewers not to receive any information which is dangerous to or not in conformity with the social interest. While in the case of an internet, no such pre-censorship is possible and each individual is publisher, printer, producer, director and broadcaster of the content without any statutory regulation;

(iv) In case of print media or medium of television and films whatever is truly recorded can only be published or broadcasted [televised] viewed. While in case of an internet, morphing of images, change of voices and many other technologically advance methods to create serious potential social disorder can be applied.

(v) By the medium of internet, rumors having a serious potential of creating a serious social disorder can be spread to trillions of people without any check which is not possible in case of other mediums.

(vi) In case of mediums like print media, television and films, it is broadly not possible to invade privacy of unwilling persons. While in case of an internet, it is very easy to invade upon the privacy of any individual and thereby violating his right under Article 21 of the Constitution of India.

(vii) By its very nature, in the mediums like newspaper, magazine, television or a movie, it is not possible to sexually harass someone, outrage the modesty of anyone, use unacceptable filthy language and evoke communal frenzy which would lead to serious social disorder. While in the case of an internet, it is easily possible to do so by a mere click of a button without any geographical limitations and almost in all cases while ensuring anonymity of the offender.

(viii) By the very nature of the medium, the width and reach of internet is manifold as against newspapers and films. The

said mediums have inbuilt limitations i.e., a person will have to buy / borrow a newspaper and/or will have to go to a theater to watch a movie. For television also one needs at least a room where a television is placed and can only watch those channels which he has subscribed and that too only at a time where it is being telecast. While in case of an internet a person abusing the internet, can commit an offence at any place at the time of his choice and maintaining his anonymity in almost all cases.

(ix) In case of other mediums, it is impossible to maintain anonymity as a result of which speech, ideal opinions, films having serious potential of creating a social disorder never gets generated since its origin is bound to be known. While in case of an internet mostly its abuse takes place under the garb of anonymity which can be unveiled only after thorough investigation.

(x) In case of other mediums like newspapers, television or films, the approach is always institutionalised approach governed by industry specific ethical norms of self-conduct. Each newspaper / magazine / movie production house / TV Channel will have their own institutionalised policies inhouse which would generally obviate any possibility of the medium being abused. As against that use of internet is solely based upon individualistic approach of each individual without any check, balance or regulatory ethical norms for exercising freedom of speech and expression under Article 19[1] [a].

(xi) In the era limited to print media and cinematograph; or even in case of publication through airwaves, the chances of abuse of freedom of expression was less due to inherent infrastructural and logistical constrains. In the case of said mediums, it was almost impossible for an individual to create and publish an abusive content and make it available to trillions of people. Whereas, in the present internet age the said infrastructural and logistical constrains have disappeared as any individual using even a smart mobile phone or a

portable computer device can create and publish abusive material on its own, without seeking help of anyone else and make it available to trillions of people by just one click.”

As stated, all the above factors may make a distinction between the print and other media as opposed to the internet and the legislature may well, therefore, provide for separate offences so far as free speech over the internet is concerned. There is, therefore, an intelligible differentia having a rational relation to the object sought to be achieved – that there can be creation of offences which are applied to free speech over the internet alone as opposed to other mediums of communication.

But the Supreme Court in *Shreya Singhal* refused to relax the Court’s scrutiny of the curbing of the content of free speech over the internet. The validity of a law will have to be tested on the touchstone of the tests as indicated above.⁴⁴

The next question whether there is any distinction between the freedom of the print media and that of the electronic media such as radio and television, and if so, whether it necessitates more restrictions on the latter media was considered in *Secretary, Ministry of Information & Broadcasting, Government of India v. Cricket Association of Bengal*.⁴⁵ The Court responded observing:⁴⁶

“There is no doubt that since the airwaves/frequencies are a public property and are also limited, they have to be used in the best interest of the society and this can be done either by a central authority by establishing its own broadcasting network or regulating the grant of licences to other agencies, including the private agencies. What is further, the electronic media is the most powerful media both because of its audio-visual impact and its widest reach covering the section of the society where the print media does not reach. The right to use

⁴⁴ See *Id.* at para 28.

⁴⁵ (1995) 2 SCC 161 in para 37.

⁴⁶ *Id.* in para 78.

the airwaves and the content of the programmes, therefore, needs regulation for balancing it and as well as to prevent monopoly of information and views relayed, which is a potential danger flowing from the concentration of the right to broadcast/telecast in the hands either of a central agency or of few private affluent broadcasters. That is why the need to have a central agency representative of all sections of the society free from control both of the Government and the dominant influential sections of the society. This is not disputed. But to contend that on that account the restrictions to be imposed on the right under Article 19(1)(a) should be in addition to those permissible under Article 19(2) and dictated by the use of public resources in the best interests of the society at large, is to misconceive both the content of the freedom of speech and expression and the problems posed by the element of public property in, and the alleged scarcity of, the frequencies as well as by the wider reach of the media. If the right to freedom of speech and expression includes the right to disseminate information to as wide a section of the population as is possible, the access which enables the right to be so exercised is also an integral part of the said right. The wider range of circulation of information or its greater impact cannot restrict the content of the right nor can it justify its denial. The virtues of the electronic media cannot become its enemies. It may warrant a greater regulation over licensing and control and vigilance on the content of the programme telecast. However, this control can only be exercised within the framework of Article 19(2) and the dictates of public interests. To plead for other grounds is to plead for unconstitutional measures. It is further difficult to appreciate such contention on the part of the Government in this country when they have a complete control over the frequencies and the content of the programme to be telecast. They control the sole agency of telecasting. They are also armed with the provisions of Article 19(2) and the powers of pre-censorship under the Cinematograph Act and Rules. The only limitation on the said right is, therefore, the limitation of resources and the need to use them for the benefit of all.

When, however, there are surplus or unlimited resources and the public interests so demand or in any case do not prevent telecasting, the validity of the argument based on limitation of resources disappears. It is true that to own a frequency for the purposes of broadcasting is a costly affair and even when there are surplus or unlimited frequencies, only the affluent few will own them and will be in a position to use it to subserve their own interest by manipulating news and views. That also poses a danger to the freedom of speech and expression of the have-nots by denying them the truthful information on all sides of an issue which is so necessary to form a sound view on any subject. That is why the doctrine of fairness has been evolved in the U.S. in the context of the private broadcasters licensed to share the limited frequencies with the central agency like the FCC to regulate the programming. But this phenomenon occurs even in the case of the print media of all the countries. Hence the body like the Press Council of India which is empowered to enforce, however imperfectly, the right to reply. The print media further enjoys as in our country, freedom from pre-censorship unlike the electronic media.”

It is clear that Article 19(1) (a) of the Constitution of India states that all citizens shall have the right to freedom of speech and expression. The philosophy behind this lies in the Preamble of the Constitution, where a solemn resolve is made to secure to all Indian citizens, liberty of thought and expression. The exercise of this right is, however, subject to reasonable restrictions for certain purposes being imposed under Article 19(2) of the Constitution of India. The main elements of right are: (a). it is available only to citizens, (b). it includes the right to express ones views and opinions at any issue through any medium, e.g. by words of mouth, writing, printing, picture, film, movie etc., (c). it is not absolute and government to frame laws to impose reasonable restrictions in the interest of sovereignty and integrity of India, security of the state, friendly relations with foreign States, public order, decency and morality and contempt of court, defamation and incitement to an offence, and (d). the restriction on the freedom of speech of any citizen may be imposed as much by an

action of the state as by its inaction, meaning thereby the failure on the part of the state to guarantee to all its citizens the fundamental right to freedom of speech and expression also constitutes a violation of Article 19(1) (a).

Freedom of speech and expression is explained in some cases to include right to propagate ones views through print media or any other communication channel e.g. radio, television subject to reasonable restrictions imposed under Article 19(2).⁴⁷ *Romesh Thappar v. State of Madras*⁴⁸ was amongst the earliest cases to be decided by the Supreme Court declaring freedom of press as a part of freedom of speech and expression. As per Patanjali Sastri, J., rightly so, freedom of speech and of press lay at the foundation of all democratic organisations, for without free political discussion, no public education, so essential for the proper functioning of the process of government, is possible. *The Indian Express v. Union of India*,⁴⁹ clarifies that the press plays a very significant role in the democratic machinery. The courts have a duty to uphold the freedom of press and invalidate all laws and administrative actions that abridge that freedom. Freedom of press includes freedom of publication, freedom of circulation and freedom against pre-censorship.⁵⁰

⁴⁷ <http://www.legalserviceindia.com/legal/article-572-constitution-of-india-freedom-of-speech-and-expression.html> accessed on 01.09.2020 at 6 pm
Constitution of India-Freedom of speech and expression By Npradhan.

⁴⁸ (1950) SCR 594, 607; AIR 1950 SC 124).

⁴⁹ (1985) 1 SCC 641.

⁵⁰ In *Sakal Papers Ltd. v. Union of India*, [AIR 1962 SC 305] the Daily Newspapers (Price and Page) Order, 1960, which fixed the number of pages and size which a newspaper could publish at a price and in *Bennett Coleman and Co. v. Union of India*, [AIR 1973 SC 106; (1972) 2 SCC 788], the validity of the Newsprint Control Order, which fixed the maximum number of pages, was struck down by the Supreme Court of India holding it to be violative of provision of Article 19(1)(a) and not to be reasonable restriction under Article 19(2). The Court struck down the Government's stand that it would help small newspapers to grow. In the case of *Brij Bhushan v. State of Delhi* (AIR 1950 SC 129), the validity of order imposing pre-censorship on an English Weekly of Delhi, which directed the editor and publisher of a newspaper to submit for scrutiny, in duplicate, before the publication, all communal matters, all the matters and news and views about Pakistan, including photographs, and cartoons, on the

About freedom of Commercial speech, in *Tata Press Ltd. v. Mahanagar Telephone Nigam Ltd.*, the Supreme Court held that a commercial advertisement or commercial speech was also a part of the freedom of speech and expression, which would be restricted only within the limitation of Article 19(2). Supreme Court held that advertising, which is no more than a commercial transaction, is nonetheless dissemination of information regarding the product-advertised. Public at large are benefited by the information made available through the advertisements. In a democratic economy, free flow of commercial information is indispensable.

The concept speech and expression has evolved with the progress of technology and include all available means of expression and communication. This would include the electronic and the broadcast media. In *Odyssey Communications (P) Ltd .v. Lokvidyan Sanghatana*, the Supreme Court held that the right of a citizen to exhibit films on the State channel Doordarshan is part of the fundamental right guaranteed under Article 19(1)(a). In this case, the petitioners challenged the exhibition on Doordarshan of a serial titled Honi Anthoni on the ground that it encouraged superstitious and blind faith amongst viewers. The petition was dismissed as the petitioner failed to show evidence of prejudice to the public.

The freedom of 'speech and expression' comprises not only the right to express, publish and propagate information, its circulation but also to receive information. This was held by the Supreme Court in a series of judgments which have discussed the right to information in varied contexts from advertisements enabling the citizens to get vital information about life-saving drugs, to the right of sports lovers to watch cricket and the right of voters to know the antecedents of electoral candidates. The Supreme Court observed in *Union of India v. Assn. for Democratic Reforms*,⁵¹ "One-sided information, disinformation, misinformation and non-information, all equally create an uninformed citizenry which makes democracy a farce. Freedom of

ground that it was a restriction on the liberty of the press, was struck down by the Court.

⁵¹ (2002) 5 SCC 294.

speech and expression includes right to impart and receive information which includes freedom to hold opinions". In *S. Rangarajan v. P. Jagjivan Ram*,⁵² everyone has a fundamental right to form his opinion on any issues of general concern. Open criticism of government policies and operations is not a ground for restricting expression. Intolerance is as much dangerous to democracy as to the person himself. In democracy, it is not necessary that everyone should sing the same song. In *Maneka Gandhi v. Union of India*,⁵³ the Supreme Court considered whether Article 19(1)(a) of Indian Constitution was confined to Indian territory and held that the freedom of speech and expression is not confined to National boundaries.

Reasonable restrictions can be imposed on the freedom of speech and expression, in the interest of the security of the State. The term security of State has to be distinguished from public order. For security of State refers to serious and aggravated forms of public disorder, example rebellion, waging war against the State [entire State or part of the state], insurrection etc. In *Peoples Union for Civil Liberties (PUCL) v. Union of India*,⁵⁴ about telephone tapping it has been held that under Section 5(2) of The Indian Telegraph Act, 1885 the occurrence of public emergency and interest of public safety are the *sine qua non* for its application. In the absence of these two conditions, the Government has no right to exercise its power under the said Section. Telephone tapping, therefore, violates Article 19(1) (a) unless it comes within the grounds of reasonable restrictions under Article 19(2).

This ground was added by the Constitution (First Amendment) Act of 1951. The State can impose reasonable restrictions on the freedom of speech and expression, if it hampers the friendly relations of India with other State or States.

⁵² 1989 SCC (2) 574.

⁵³ 1978 AIR 597.

⁵⁴ AIR 1997 SC 568.

This ground of public order was added by the Constitution (First Amendment) Act, 1951 in order to meet the situation arising from the Supreme Court's decision in *Romesh Thapar*.⁵⁵ As per Supreme Court, public order is different from law and order and security of State.⁵⁶ The expression 'public order' connotes the sense of public peace, safety and tranquility. Anything that disturbs public peace disturbs public order.⁵⁷ But mere criticism of the Government does not necessarily disturb public order. A law, which punishes the deliberate utterances hurting the religious feelings of any class has been held to be valid and reasonable restriction aimed to maintaining the public order.

Sections 292 to 294 of the Indian Penal Code provide instances of restrictions on the freedom of speech and expression on the grounds of decency and morality, which prohibit the sale or distribution or exhibition of obscene words. The Supreme Court in *Ranjit D. Udeshi v. State of Maharashtra*⁵⁸ upheld the conviction of a book seller who was prosecuted under Section 292, Indian Penal Code, for selling and keeping the book *Lady Chatterley's Lover*.

Another area is the right to freedom of speech which would not allow a person to do contempt of courts as defined in Section 2 of the Contempt of Courts Act, 1971. The term contempt of court refers to civil contempt or criminal contempt under the Act. In *E.M.S. Namboodripad v. T.N. Nambiar*,⁵⁹ the Supreme Court confirmed the decision of the High Court, holding Mr. Namboodripad guilty of contempt of court. In *M.R. Parashar v. Farooq Abdullah*,⁶⁰ contempt proceedings were initiated against the Chief Minister of Jammu and Kashmir. But the Court dismissed the petition for want of proof.

⁵⁵ (AIR 1950 SC 124).

⁵⁶ *Kishori Mohan v. State of West Bengal*.

⁵⁷ *Om Prakash v. Emperor*, AIR 1948 Nag, 199.

⁵⁸ AIR 1965 SC 881.

⁵⁹ AIR 1970 SC 2015.

⁶⁰ AIR 1984 SC 615).

II. In Re: Prashant Bhushan (Latest about Freedom of Speech)

*In Re: Prashant Bhushan & Anr.*⁶¹ two tweets were made by Senior Advocate Prashant Bhushan. One tweet in question, made against the CJI, is to the following effect:

"CJI rides a 50 Lakh motorcycle belonging to a BJP leader at Raj Bhavan, Nagpur, without a mask or helmet, at a time when he keeps the SC in Lockdown mode denying citizens their fundamental right to access justice!"

Apart from that, another tweet has been published today in the Times of India which was made by Shri Prashant Bhushan on June 27, 2020, when he tweeted,

"When historians in future look back at the last 6 years to see how democracy has been destroyed in India even without a formal Emergency, they will particularly mark the role of the Supreme Court in this destruction, & more particularly the role of the last 4 CJIs."

The Court observed, "We are, prima facie, of the view that the aforesaid statements on Twitter have brought the administration of justice in disrepute and are capable of undermining the dignity and authority of the Institution of Supreme Court in general and the office of the Chief Justice of India in particular, in the eyes of public at large. We take *suo motu* cognizance of the aforesaid tweet also apart from the tweet quoted above and *suo motu* register the proceedings". The Court ultimately gave its finding as follows:

"The summary jurisdiction of this Court is required to be exercised not to vindicate the dignity and honour of the individual judge, who is personally attacked or scandalised, but to uphold the majesty of the law and of the administration of justice. The foundation of the judiciary is the trust and the confidence of the people in its ability to

⁶¹ [Suo Motu Contempt Petition (Crl.) No. 1 of 2020].

deliver fearless and impartial justice. When the foundation itself is sought to be shaken by acts which tend to create disaffection and disrespect for the authority of the Court by creating distrust in its working, the edifice of the judicial system gets eroded. The scurrilous/malicious attacks by the alleged contemnor No.1 are not only against one or two judges but the entire Supreme Court in its functioning of the last six years. Such an attack which tends to create disaffection and disrespect for the authority of this Court cannot be ignored. Recently, the Supreme Court in the cases of National Lawyers Campaign for Judicial Transparency and Reforms and others vs. Union of India and others¹⁵ and *Re: Vijay Kurlle & Ors (supra)* has *suo motu* taken action against Advocates who had made scandalous allegations against the individual judge/judges. Here the alleged contemnor has attempted to scandalise the entire institution of the Supreme Court.”

The court also referred to the observations of Justice Wilmot in *R. v. Almon* 16 made as early as in 1765:

"....And whenever men's allegiance to the law is so fundamentally shaken, it is the most fatal and most dangerous obstruction of justice, and, in my opinion, calls out for a more rapid and immediate redress than any other obstruction whatsoever; not for the sake of the Judges, as private individuals, but because they are the channels by which the King's justice is conveyed to the people."

The Court eventually held: “The tweets which are based on the distorted facts, in our considered view, amount to committing of 'criminal contempt'.”⁶²

As regards punishment the Court sentenced “the contemnor with a fine or Re.1/(Rupee one) to be deposited with the Registry of this

⁶² Paras 74-75 in *Suo Motu Contempt Petition (Crl.) No. 1 of 2020* –August 14, 2020.

Court by 15.09.2020, failing which he shall undergo a simple imprisonment for a period of three months and further be debarred from practising in this Court for a period of three years”.⁶³

The Court observed,” Section 13 provides that no court should impose a sentence under the Act for contempt unless it is satisfied that the contempt is of such a nature that it substantially interferes or tends to substantially interfere with the due course of justice. It also provides that truth can be permitted to be raised as a valid defence if the Court is satisfied that the defence has been raised in the public interest and is a bona fide defence”.⁶⁴

Further, the Court asserted, “the Indian judiciary is not only one of pillars on which the Indian democracy stands but is the central pillar.

⁶³ We have given deep thought as to what sentence should be imposed on the contemnor. The conduct of the present contemnor also needs to be taken into consideration. This Court in *Tehseen Poonawala* (supra) has observed that the said matter was a fit matter wherein criminal contempt proceedings were required to be initiated. However, the court stopped at doing so observing that it would have been an unequal fight.

The learned Attorney General had also initiated contempt proceedings against the present contemnor, however, on the contemnor submitting regret, the learned Attorney General sought withdrawal of the said proceedings. However, the said proceedings are still pending. In the present matter also not on one occasion but on several occasions, we not only gave opportunity but also directly or indirectly persuaded the contemnor to express regret.

Not only that the learned Attorney General had also suggested that it was in the fitness of things that a contemnor expresses regret and withdraws the allegation made in the affidavit in reply, which request was not heeded to by the contemnor. The contemnor not only gave wide publicity to the second statement submitted before this Court on 24.08.2020 prior to the same being tendered to the Court, but also gave various interviews with regard to sub judice matter, thereby further attempting to bring down the reputation of this Court.

If we do not take cognizance of such conduct it will give a wrong message to the lawyers and litigants throughout the country. However, by showing magnanimity, instead of imposing any severe punishment, we are sentencing the contemnor with a nominal fine of Re.1/(Rupee one). Para 92 per JJ. Arun Mishra, B.R. Gavai and J. Krishna Murari-
August 31, 2020.

⁶⁴ para 24, August 14, 2020.

The Indian Constitutional democracy stands on the bedrock of rule of law. The trust, faith and confidence of the citizens of the country in the judicial system is *sine qua non* for existence of rule of law. An attempt to shake the very foundation of constitutional democracy has to be dealt with an iron hand. The tweet has the effect of destabilising the very foundation of this important pillar of the Indian democracy. The tweet clearly tends to give an impression, that the Supreme Court, which is the highest constitutional court in the country, has in the last six years played a vital role in destruction of the Indian democracy. There is no manner of doubt, that the tweet tends to shake the public confidence in the institution of judiciary. We do not want to go into the truthfulness or otherwise of the first part of the tweet, in as much as we do not want to convert this proceeding into a platform for political debate. We are only concerned with the damage that is sought to be done to the institution of administration of justice. In our considered view, the said tweet undermines the dignity and authority of the institution of the Supreme Court of India and the CJI and directly affronts the majesty of law”.⁶⁵

III. Muslim Position on Media Assertion and Dependence

Freedom of speech and expression is under the Constitution a big support to Muslims of India. India is witness to an extreme form of religious communalism which caused its partition under the divide and rule policy. The Constitution tried to separate religion and politics from its national narrative by putting in place the values of equality, liberty and justice to attain human dignity and fraternity. The Constitution that gives equal rights and freedom to all its citizens irrespective of their religious or gender identity. India progressed on the path of growth and development while maintaining peace since 1947, for which much of the credit goes to media and legislature in maintaining impartiality in action and appearance. Some worries are reported now about the functioning of the democratic institutions having grown partial, divisive, damning and derelict. Earlier many

⁶⁵ Para 71, August 14, 2020 <https://www.advocatekhoj.com/library/judgments/announcement.php?WID=13087>.

social movements were undertaken and progressive demonstrations were held to keep the social fabric intact and a dialogue among communities continuing. But replacing patriotism by nationalism with the perplexing narratives from the media has shaken the faith of Muslims in the potential and quality of the freedom of speech and expression.

Over the decades, minority communities which are not politically dominant have conventionally evolved a relationship with the majority community based on social, political and economic dependency. The Indian media has played an important role in the way the minority and majority communities or different faith groups have communicated with each other. The media has worked as a facilitator when minority communities negotiated with the Indian State for their rights and their place in Indian democracy. But the situation seems to have turned topsy-turvy against Muslims. The following case study is being often quoted where judiciary with judges like Hon'ble Chief Justice Govind Mathur and Hon'ble Justice Saumitra Dayal Singh, of Allahabad High Court to recreate confidence among the Muslims of India in the belief in the constitutional culture of India, nourished by many sensitive judges for decades without influences of biases from history, corrupt politicians, sectarian villains, religious exploiters, power mongers and an extreme class of sadists and tormenters. The feelings will be clear from the following case story.

IV. An Instance of Monstrous Hoopla and Dandora: *Tablighi Jamaat in Question*

Journalists, so called, say, “Catch them anyway, if Muslim”: Court is still a hope

Globally, there have been tens of millions of confirmed cases of COVID-19, including about a million of deaths, so far, reported to WHO. It has caused terrific loss, besides health, to both market and society. It has shattered the systems of education, governance, and maintenance of hopes, values, tradition, plans, aspirations, sentiments and what not. But some components of media in the country are so

much infected by another virus, 'COVID-COMMUNAL', which unfortunately made them transcend all values of journalism and WHO instructions, leading to blaming and demonising an innocent group of Muslims (Tablighi Jamat) who were, in fact, held up due to sudden declaration of lockdown in a mosque in Delhi on 23rd March, 2020. Even the likeminded persons in government agencies turned into communal perpetrators causing social boycott of Muslims at many places in the country, though the common people in the country are totally harmonic in their real nature. Such culprits in law and ethics have gone scot free in the country, while the members of the innocent group were mercilessly intimidated, persecuted and disparaged. In their verbosity, the communally charged journalists were clearly seeming as ridiculing the faith of these people, the most rational religion, after which only democracy and reason prospered in the world, which had long back established the quarantine norms to meet pandemic situations. Most surprising was the behaviour of concerned authorities. Many of the Muslim group were put under arrest.

The situation was, in due course, well explained by events themselves with the tolerant approach of Muslims and all against them had not happened without the presence of ill will in many minds of so called journalists, may be with patronage. The judicial response of Bombay and Madras High Courts on the arrest of the members of Tablighi Jamaat of Muslims is reported below.

The Aurangabad Bench of the Bombay High Court, on Friday, 21st August, 2020, quashed FIRs filed against 29 foreign nationals and six Indians in connection with a Tablighi Jamaat gathering in Delhi amidst the corona virus restrictions in March end, saying they had been made "scapegoat", and that the action against them was an "indirect warning to Indian Muslims" after the protests against the Citizenship (Amendment) Act. "A political government tries to find a scapegoat when there is a pandemic or calamity and the circumstances show that there is a probability that these foreigners were chosen to make them a scapegoat," the Court said, in its order on three separate petitions by the 29 foreigners, charged with violating their visa terms and Epidemic Act guidelines, and the six

Indians accused of granting them shelter in Ahmednagar district of Maharashtra. “The material discussed shows that no such nuisance was created by the foreigners or Indian Muslims and only an attempt was made by others to create such (an) atmosphere against them,” the Court said, blaming “big”, “unwarranted”, “media propaganda”. “An attempt was made to create a picture that these foreigners were responsible for spreading Covid-19 virus in India.” Asking the authorities concerned to “repent” and “repair the damage done by such action”, the Bench said, “The government cannot give different treatment to citizens of different religions of different countries... Social and religious tolerance is a practical necessity for unity and integrity of India and it is made compulsory by the Indian Constitution.”

Under a paragraph marked ‘Background of Malice’, the Court said, it considered what could have prompted the authorities to issue such directions. “There were protests... at many places in India from at least prior to January 2020. Most of the persons (who) participated in the protests were Muslims. It is their contention that the Citizenship (Amendment) Act, 2019, is discriminatory against Muslims... They were protesting against the NRC (National Register of Citizens)... It can be said that due to the action taken, fear was created in the minds of those Muslims. This action indirectly gave warning to Indian Muslims that action in any form and for anything can be taken against Muslims. It was indicated that even for keeping contact with Muslims of other countries, action will be taken against them... Similar action was not taken against other foreigners belonging to other religions,” the Court said.

On the cases filed against the Tablighi members for violating the Epidemics Act, Disaster Management Act and Foreigners Act, the Division Bench of Justices T V Nalawade and M G Sewlikar noted that there was no restriction against foreigners visiting religious places, or participating in normal religious activities or discourses. It said, the Maharashtra Police had acted “mechanically” and chargesheets had been filed without *prima facie* evidence and indicated “non-application of mind”.

“It appears that the state government acted under political compulsion and police also did not dare to exercise powers given to them under provisions of procedural law like the Criminal Procedure Code and substantive laws,” the judges said.

The petitioners, belonging to countries such as Iran, Ivory Coast, Indonesia and Djibouti, who are currently out on bail and in Ahmednagar according to their lawyer Mazhar Jahagirdar, had pointed out to the Court that they had come to India on valid visas, to experience Indian culture, tradition, hospitality and food, and had declared attending the Tablighi gathering as the purpose of their visit. Several of them submitted in the Court that they had arrived in February or before March 10, when there was no lockdown, and had been screened for the corona virus at airport. They refuted police claims of violating their visa terms and said they had come only to participate in a religious tour and not to propagate Islam.

Opposing the pleas, the police argued that following the lockdown, several public announcements had been made asking people who had attended the Tablighi event to come forward for testing, but the petitioners had not done so, thus putting others at risk of contracting the corona virus.

The six Indians who moved Court included trustees of Ahmednagar mosques who had given the foreigners shelter after the Tablighi gathering, as the lockdown started and they couldn't leave due to flight cancellations.

Pointing out that the Tablighis had been holding such gatherings for years, the Court said, “The activity was going on for more than 50 years and it is (held) throughout the year.”

It said, the fact that mosques had given them shelter “could not have been treated as (an) offence”, and that gurdwaras too had opened doors for migrant workers during the lockdown. The court said the authorities had submitted no material to indicate mosques had been opened for general public to offer prayers, in violation of the district authority orders.

It refused to grant a stay for filing of an appeal, saying the process of granting the Tablighis permission to go home and arrangement of flights would take time anyway.

At the end of the judgment, Justice Sewlikar said that while he agreed with the part of the order quashing the FIRs, he had differing views on a few observations made by Justice Nalawade. Justice Sewlikar's separate judgment, with his reasons, is yet to be made available.⁶⁶

Before that the Madras High Court took reasonable view on the action against the members of the Tablighi Jamaat of Muslims by grant bail to 31 Tablighi members from abroad. "The Tamil Nadu Police arrested them, including nationals from Indonesia and Ethiopia, in April for engaging in religious preaching in several mosques and villages in the state as part of a nationwide crackdown.

Granting them bail, the Madurai bench of the High Court, however, refrained from addressing them as Tablighis, observing that such "categorisation can have serious pitfalls."

The Madras High Court has given bail to 31 foreigners who were arrested for taking part in the Tablighi Jamaat activities in alleged violations of their visa norms and asked the government to facilitate their return.

"Justicing has to be an individualised exercise. There are scores of foreign Tablighis who are presently in detention. They hail from different countries. Some of them are women. Quite a few are senior citizens. They are normal human beings. They are now stuck in alien surroundings. The petitioners came here propelled by a sense of religious idealism. But their mission went awry. They are now eager to go back to their families. They are willing to file individual affidavits admitting that they had violated the visa conditions. They undertake that they will not enter India for the next ten years. They

⁶⁶ <https://indianexpress.com/article/india/tablighi-jamaat-case-firs-bombay-hc-coronavirus-6565460/>; Written by Omkar Gokhale , Sadaf Modak | Mumbai
Updated: August 23, 2020 4:42:02 am.

will make their own arrangements for return by coordinating with their respective Embassies and Consulates,” said the Court.

Justice G R Swaminathan, who granted them bail, said: “Tablighi Jamaat has come under severe and harsh criticism for its reckless and irresponsible conduct and rightly so.

“There are accusations that its puritanical and revivalist project prepares the ground for Islamic radicalisation. Of course, this narrative has been contested by quite a few public intellectuals,” he said, citing a recent essay by Upendra Baxi titled Exodus Constitutionalism.

About granting them bail, the Court said offences which the petitioners alleged to have committed were not similar to those offences for which there are limitations in granting bail.

“The continued incarceration of the petitioners is not going to serve any purpose. Since the petitioners are foreigners, it would obviously be difficult for them to arrange local sureties. Therefore, I direct that they shall be released on their own bond. The bonds can be submitted to the jurisdictional magistrates through emails and the jurisdictional magistrates are directed to accept the same and also issue appropriate release orders,” said Justice Swaminathan.

Further, elaborating the significance of granting them bail, he said, the right to leave any country can be invoked during times of armed conflict or emergency. “The current pandemic times are no different. The petitioners fortunately have not tested positive so far. The position may be different tomorrow. The lives of the petitioners may be in danger. Times may be uncertain but rights have to be certain,” said the order.

The court said the government needs to facilitate their return. “Instead of doing so, if the respondents insist on detaining the

petitioners and prosecuting them, it can only be characterised as unreasonable, unjust and unfair,” the Court said.”⁶⁷

V. A Case Study of Uncluttered Horrifying and Ship-Shape Scandalising⁶⁸

Dr Kafeel Khan-The life and times: launched into media as a hero one day and decried as the villain the next.

A Muslim Doctor, Kafeel Khan was arrested in January from Mumbai, with the Uttar Pradesh police alleging that he made a ‘provocative’ speech at the Aligarh Muslim University during the anti-Citizenship (Amendment) Act protests. Though he was granted bail soon after, he wasn’t released— and the police slapped charges against him under the NSA. Dr Kafeel Khan was finally released from Mathura jail at midnight on September 1, after spending seven months in prison for “freedom of speech and expression”. He was arrested the first time, exactly three years ago, on September 2, 2017, when he had arranged oxygen cylinders for use by patients because of the ‘oxygen shortage tragedy at Gorakhpur’s BRD Medical College’ in order to save lives of children where the shortage had already led to the deaths of more than a hundred children. He was arrested even if he was frantically attempting to save the lives of children on that day in 2017. He had to spend more than six months behind bars before being granted bail at that time.⁶⁹

⁶⁷ <https://indianexpress.com/article/india/madras-high-court-grants-bail-to-31-tablighi-members-from-abroad-6462436/>; Written by Arun Janardhanan | Chennai | Published: June 17, 2020 2:12:31 am.

⁶⁸ Life <https://thewire.in/rights/dr-kafeel-khan-release-gorakhpur-brd-medical-arrest> 8th September 2020 at 1.48 am; Manoj Singh, GOVERNMENT RIGHTS 03/SEP/2020.

⁶⁹ <https://thewire.in/rights/kafeel-khan-arrest-cases-timeline> accessed on 08.09.2020. As reported, Dr Kafeel Khan was released from a Mathura jail on Tuesday night, after the Allahabad High Court set aside his detention under the National Security Act. The court said the Uttar Pradesh government’s decision to detain Khan was “not sustainable in the eye of law”. Khan was arrested in January from Mumbai, with the Uttar Pradesh police alleging that he made a ‘provocative’ speech at the Aligarh Muslim University during the anti-Citizenship (Amendment) Act protests. Though he was granted bail soon after, he wasn’t released – and the police slapped charges under the NSA

against him. The Court has slammed this action, saying Khan's speech "does not disclose any effort to promote hatred or violence".

This is not the first time the Uttar Pradesh police has gone after Khan. It was widely believed that he was made a scapegoat in the Gorakhpur oxygen shortage tragedy that led to the deaths of more than a hundred children. Here is a brief timeline of Khan's encounters with the U.P. police, his arrests and his release.

September 2, 2017: Khan, who was the nodal officer of the BRD Medical College, was arrested under various sections of the IPC, Prevention of Corruption Act and the Indian Medical Council Act for the death of infants at the hospital. He was one of nine people accused in the case.

April 21, 2018: Khan wrote a ten-page letter claiming innocence. "I surrendered to save my family from the humiliation, misery, thinking that when I have not done anything wrong, I should get justice," he wrote.

April 25, 2018: The Allahabad High Court granted Khan bail, saying that he was not needed in custody since the chargesheet had been filed.

June 10, 2018: Khan's brother, Kashif Jameel was shot three times and survived. "I always said they would try to kill us," Khan said after the attack.

September 27, 2019: Two years after the infant deaths (of which Khan spent about nine months in jail), he was absolved of all charges in the case. An internal hospital inquiry committee has cleared him of the allegations and said that he was not the nodal officer of the encephalitis ward and thus it was not negligence on his part that led to the deaths.

October 4, 2019: The Uttar Pradesh government ordered a fresh probe into Khan. Rajneesh Dubey, Uttar Pradesh's principal secretary of medical education told the media that "some facts were not taken into account" by the earlier probe committee and the government is looking into them.

December 12, 2019: Khan delivered a speech at the anti-CAA protest at Aligarh Muslim University.

January 30, 2020: Uttar Pradesh police arrested Khan from the airport for his speech at AMU, saying he made 'inflammatory' and 'provocative' statements. The FIR was filed under IPC Section 153A.

January 31, 2020: Khan was remanded to judicial custody and sent to a Mathura jail.

February 10, 2020: Khan was granted bail by an Aligarh court, but not released from jail.

February 14, 2020: Charges under the National Security Act invoked against Khan. The NSA allows the government to detain people for up to one year without a trial if they suspect that they could disrupt public order, endanger the security of India or its ties with foreign countries.

August 17, 2020: UP government extended Khan's NSA detention by three months.

September 1, 2020: The Allahabad high court set aside Khan's detention under the NSA. He was released from jail at night.

A resident of Gorakhpur's Basantpur locality, 46-year-old Khan had spent 12 years of his life at Manipal Institute of Medical Sciences in Gangtok. He received his primary education from Amar Singh Children's School in Gorakhpur and finished his high and intermediate education from Mahatma Gandhi Inter College, where his elder brother also studied.

Their father had hoped that both his sons would become doctors. After clearing his intermediate exams, Khan was selected in both Combined Pre-Medical Test (CMPT) and Manipal Institute of Medical Sciences with an all India ranking of 30. Fulfilling his family's wishes, he went to Manipal.

At Manipal, after an MBBS and then an MD, Khan stayed on as an assistant professor in the paediatric department. He returned to Gorakhpur in 2013 and married Dr Shabista Khan.

Between 2013 to April 2016, Khan worked as a senior resident doctor at BRD Medical College. The contract ended in April after which he worked at the family hospital for some time. In August, he was appointed assistant professor in the paediatric department of the BRD Medical College.

Khan's father Shakeel Ahmed Khan, who worked as an engineer in the irrigation department, passed away on March 3, 2003.

Khan's elder brother, Adeel, started his business after completing an MBA while his youngest brother is an orthopaedic surgeon. Another brother, Kashif Jamil, is also a businessman with degrees in MCA and MBA. In 2018, Kashif was attacked by assailants who shot him three times.

The day of tragedy

The BRD Medical College administration was already in the know that the supply of liquid oxygen would be disrupted, and ultimately cut off, by evening on August 10, 2017, as the oxygen supply company had written about it to the BRD officials at 11.20 am that

day. By evening, the news broke in the media as several reporters received copies of the letter on WhatsApp. Based on the letter, *Gorakhpur Newsline* published the story in the evening on August 10.

Neither the medical college administration nor the district administration could arrange for liquid oxygen for the plant or adequate number of jumbo cylinders as an alternative, resulting in the horrific incident that was triggered at 7.30 pm on August 10.

The now infamous 100 number Ward of Dr. Kafeel Khan

On August 11, when I reached the 100-bed encephalitis ward of BRD Medical College at around 11.30 am, I saw a tense Dr Khan speaking on his mobile phone, walking back and forth. Meanwhile, jumbo cylinders were being offloaded from a pickup truck outside.

There was deafening silence inside the ward while a photographer of a local daily and the stringer of another newspaper waited outside. Soon, a woman arrived at the hospital carrying a child and crying.

Khan saw the child outside the ward, immediately took him in his arms and rushed inside the ward. The scene was promptly captured by the photographer.

The next day, as the dreadful news of the infants' death spread, some newspapers carried a brief snippet of the saviour doctor along with the picture of Dr Khan and the child. Readers, aggrieved and outraged over the oxygen scandal, were captivated with the doctor's gesture. The picture immediately went viral on social media.

Till August 12, Dr Khan was nowhere close to being an accused in the oxygen fiasco. On the evening of August 11, when the then District Magistrate, Rajiv Rautela, was addressing the media regarding the incident in the encephalitis ward, Dr Khan stood next to him, sharing essential information.

During the press briefing, the DM announced the formation of a committee to investigate the matter. This committee submitted its report within 24 hours. Even this report did not hold Khan guilty. He only found mention in the concluding lines of the report where it was stated that Dr Kafeel Khan (Nodal 100 Bed AES Ward) had informed Dr Satish Kumar in writing that the AC in the ward was not functioning, but it was not repaired on time.

On August 12, state health minister, Siddharth Nath Singh and medical education minister, Ashutosh Tandon, visited BRD Medical College. That is where Tandon made the insensitive “children die in the month of August” remark while talking to reporters. The statement made by the minister was widely condemned. Later, he announced the suspension of the college principal, Rajiv Mishra.

A sudden change in the winds

On the evening of August 12, the situation did a U-turn with Dr Khan suddenly in the crosshairs. Having been in charge of the encephalitis ward, he was blamed for the paucity of oxygen. He was maligned on social media where people accused him of stealing oxygen and for a private practice. An old unsubstantiated allegation of rape, which an investigation had already found to be fabricated, was dug up and circulated. While posts on social media and random websites were busy regurgitating ‘mysterious revelations’ about him, the news channels did not hold back in painting him as the ‘villain’.

The media attention now completely swung from the BRD Medical College to the Medispring Hospital and Research Centre in Daudpur, a hospital run by Khan’s family.

Within 48 hours between August 11 and August 12, the doctor who had been hailed as a hero had become the villain. On August 13, Chief Minister Adityanath visited the BRD Medical College and addressed a press conference in which a journalist asked an out of context question about private practice of doctors. The CM rose from his chair with a taut expression on his face and claimed that

strict action will be taken against whoever is found involved in such an activity. The same evening, Dr Kafeel Khan was suspended.

Director General of Medical Education, Dr K.K. Gupta, who had arrived from Lucknow and had been staying in Gorakhpur since the fateful night of August 11, appeared in interviews on almost all news channels the same day. He claimed that Dr Kafeel Khan had confessed before the CM that he was practising in private. He also said that when there were 52 cylinders already in stock, what difference would the three cylinders arranged by Khan have made? Gupta also mocked the media for portraying him as a 'hero'.

'Private practice'

It is pertinent to mention that the matter of private practice had evoked much hue and cry at the time of the oxygen scandal, but in the subsequent three years, no action was taken against any doctor except in a handful of cases. There are several examples of government doctors running private practices in and around the BRD Medical College.

Gupta travelled back to Lucknow and sent a detailed report to the principal secretary of medical education on August 22 and upon receiving a go-ahead from the government, filed an FIR at Hazratganj police station on August 23, 2017. The FIR named nine people as accused, including Khan.

The arrest

Khan was arrested on September 2. During this period, neither he nor any of his family members stepped forward to clarify the allegations levelled against him. According to Khan, he had been asked to remain silent about the incident.

"Everything will be all right in a few days, he wrote in his letter from jail. "I remained silent because I was scared. I kept silent even as I was arrested and for another six months in jail. But when Manish Bhandari, director of liquid medical oxygen supply company, Pushpa

Sales, got bail, I decided that I should let everyone know about the truth of the incident. After this, when my wife Dr Shabista Khan came to meet me on April 17, 2018, I told her that I wanted to write a letter. I wrote the letter in an hour and handed it to my wife.

The letter brought Khan's version of the story before the public for the first time since the oxygen incident. It was through this letter that people came to know that he was on leave on the day of the incident. He was informed on WhatsApp about piped oxygen running out by a colleague who was on duty in the ward. At 2.30 am, Khan left for BRD Medical College from his home in Basantpur. While attending to patients throughout the night, he was trying to arrange for oxygen cylinders.

On August 25, 2018, a single bench of the Allahabad High Court ordered his release on bail.

Release

Khan said in an interview then that he has no regrets about going to the medical college that night or for having arranged for oxygen cylinders, despite being on leave, although he was portrayed in a negative light for it. "If such a calamity strikes again, then regardless of the consequences, I will be there again, even if it means facing action", he said.

After his release from the prison, he was confident that he would be reinstated soon. He said that if the government withdrew his suspension, he would like to resume his medical and academic services at BRD Medical College as before. When asked what he would do if his suspension was not revoked, he replied that he would set up an institute equipped with facilities for the treatment of encephalitis patients.

But neither was he reinstated nor could he set up his own medical institute. He kept getting embroiled in controversies which came thick and fast. An attempt was also made on his brother's life. In September 2018, he was arrested again, allegedly for creating ruckus

at the Bahraich District Hospital. Next, he was booked for fraud and arrested along with his elder brother. After his release from prison, he started organising medical camps across the country.

Another inquiry and the CAA speech

After a departmental inquiry gave him a clean chit last year in two cases against him, there was a glimmer of hope that Khan would be reinstated, but the state government initiated another departmental inquiry against him with fresh charges. The chances of his reinstatement further dwindled.

During a protest against the contentious Citizenship Amendment Act and the proposed National Register of Citizens, Khan delivered a speech on December 12, 2019, at the Aligarh Muslim University. The next day, on December 13, 2019, a case under Section 153A was registered against him over the speech. Sections 153B, 109A, 505 (2) were later added to the case.

No action was taken in the matter for one and a half months. But on January 29, he was suddenly arrested from Mumbai. Though he got bail from the CJM court in the case on February 10, he was not released even after three days of getting bail.

On February 13, the Inspector of the Civil Lines police station informed the CO that the speech delivered by Khan on December 12 was provocative as it led to mayhem in Aligarh which continued for several days. Khan may pose a threat to law and order, the report claimed, and therefore, he should be booked under the National Security Act. The CO handed this report to the SSP the same day and the SSP in turn recommended to the DM that very day that the NSA should be invoked. The DM accepted the report and ordered the invoking of charges under the NSA against Khan.

The State Advisory Board also issued prohibitory orders against Khan under NSA. Three months later, the duration of his custody was extended for another three months. On August 13, NSA was once again extended for three months.

On September 1, the Allahabad High Court set aside his detention under the NSA. While recording its judgment, the High Court said that the speech delivered by Khan was not about spreading hatred and violence. On the contrary, it encouraged national unity. The court said he should be released immediately.

Upon being finally released, Dr Kafeel once again expressed his desire to be reinstated at his job. He said he wanted to resume medical practice among flood victims. Yet the government does not seem to have changed its stance towards him.⁷⁰

VI. The way out for the Nation⁷¹

The sections of media and society that typecast people because of their faith and demonise whole communities and promote divisions, need to be challenged. The way to do it is to build stronger counter narrative.

There should be building of alliance with civil liberties and human rights groups to spread awareness amongst people so that they believe and value the basic democratic virtues. It will be a great challenge but the way to defend fundamental human rights and respect diversity is to prepare people for it so that they demand transparency from the system.

The furtherance of the rights of the sufferers is possible when their voices are empowered and supported. The power of information is immense. We should use the great potential in information, ideas and debate to shape the public dialogue and inspire real change.

⁷⁰ Translated from Hindi by Naushin Rehman; Life <https://thewire.in/rights/dr-kafeel-khan-release-gorakhpur-brd-medical-arrest>.

⁷¹ See for more Arfa Khanum, “Media and Minority Rights: Challenges for Democracy in Contemporary India” *Religion and Law Review*, 313-319 (2016) special issue on Human Rights, Justice and Minorities. Also see generally Harish Salve, “International Bill of Rights” and P.P. Rao, “Affirmative Action under Articles 15 (4) and 16 (4)” in the same volume of *Religion and Law Review*, pages 1-26.

There are small but committed groups of activists in India that are working meticulously to check discrimination, defend community rights and promote democratic values in Indian masses. These groups should be strengthened and their efforts should be propagated and highlighted.

The approach of everyone that has stakes in the future of India should be to challenge those forces who, by way of pushing the already marginalised sections to the margins, want the hegemony of the established dominant social groups over the national resources. The forces that are doing everything to undermine the Indian democracy and its values and change the basic character of the Indian state. We earn democracy in each generation and we fight to protect it in every generation. Everyone, who believes in the idea of India, now is their responsibility to do their part.

One Senior Advocate of the Supreme Court has wisely pointed out, “What is prohibited is being practised non-challantly in our country. Every one of us should fight against this. Forget whether we are in a minority or a majority. Remember we are all citizens. The Constitution stands for the dignity of the individual—fraternity and unity. We ought to fight for achieving this ideal”.⁷²

⁷² P.P. Rao, “Affirmative Action under Articles 15 (4) and 16 (4)”, *Religion and Law Review*, 13-26 (2016) special issue on Human Rights, Justice and Minorities.

DRIFTING PEACE IN BUSINESS THROUGH PREDATORY PRICING: FINDING ANSWERS TO AN IRRATIONAL BUSINESS STRATEGY

*Dr. Swati Bajaj Seth**

A. Introduction

The competitiveness of an enterprise is one of the major components of its success in the international market. Hence, the role of the government is to enhance the competitive environment by enforcing competition laws in the domestic market. By doing that the government not only protects its own market but also the international market from the abusive practices which are not only *anti* with regard to the interests of its competitors but also *anti* to the interests of consumers and the nation's economy.¹

Predatory pricing is one amongst the abusive pricing strategies wherein the predator offers much reduced prices in the market in order to enhance the demand for its products and reduces the demand for the products of its competitors. Besides, the predator reduces prices below its own cost of production and suffers loss during that predatory stage for a short duration. The term 'predatory pricing' has been defined under the Indian competition law² and has also been defined by eminent professors and judges of DG Comp and by the US SC or FTC and by the enforcement agencies of varied jurisdiction. In fact, in countries like Canada predatory pricing has been considered as a punishable offence.³

* Presently Assistant Professor, School of Law, Maharaja Agrasen Institute of Management Studies, New Delhi.
Earlier Assistant Professor of Law, Amity Law School, Greater Noida, UP, India.

¹ Michael Porter's Diamond Theory on International Trade (National Competitive Advantage).

² Competition Act, 2002 (Act 12 of 2003), explanation (b), sec. 4.

³ Competition Act R.S., 1985, c. C-34, s. 1, R.S., 1985, c. 19 (2nd Supp.), s. 19.

The concept of predatory pricing is very ancient in the world of market competition. It has not been uncommon in the USA and later in the EU. In India, the concept is very new and its understanding is also very basic. Though the theory of predation is generally based on the “deep pocket” concept, under Indian law, it has been defined as a pricing strategy wherein the dominant enterprise reduces its price below the cost of production with the intention of eliminating competition from the market. In the EU and USA, the concept is defined by courts only through cases wherein it has been considered as a violation of Art. 102 of TFEU under EU law and a violation of Sec. 2 of the Sherman Act and provisions of the Robinson-Patman Act, 1936 under US law.

B. Traditional Theory

The theories associated with predatory pricing illuminate the understanding of the concept of predatory pricing from economists’ perspective. According to the traditional theory of predatory pricing, it’s a pricing strategy that only those enterprises can follow which already have a large share of the market and will be able to benefit from predatory pricing after inducing the exit of its competitors having less market share. The antitrust authorities used to act against predation on the basis of allegations that a dominant enterprise is trying to abuse its dominant position by reducing its prices below the cost. The competition laws of many jurisdictions still consider predatory pricing as the strategy of a dominant enterprise.⁴

C. Chicago Theory

On this the Chicago Law School said that predatory pricing is unlikely to be a profitable business strategy because the predator has a large market share, the losses incurred by a dominant firm that sets its prices below its costs will necessarily be larger than those of its intended victims. It might be argued that if a predator with superior

⁴ Aditya Bhattacharjea (ed.), *Multi-dimensional Approaches Towards New Technology: Insights on Innovation, Patents and Competition* (Springer, Singapore, 1/2018).

financial resources (referred to as ‘deep pockets’) can sustain a period of losses to drive out its rivals then why can’t the prey also raise capital?⁵ In the emerging capital market, any financing company can provide a financial hand to the predator, especially when the company is familiar with the fact that the prey is an efficient market player.

According to the Chicago School, there can be few instances where a monopolist will be able to recoup the profits they have sacrificed during the predatory drive; however, if the market is wide enough to hold more than one enterprise then an equally efficient prey can re-enter after the predator reverts to above-cost pricing, or other firms could enter, possibly after acquiring the assets of the erstwhile prey. Hence, the School provides a more convenient and rational approach—that is, buying off the competitors rather than engaging in predatory strategy.⁶

The view of the Chicago School was criticised with reference to the *game theory* which says that predatory pricing strategy can be a rational strategy if employed with asymmetric information wherein the predator knows the uniqueness of the market but its competitors do not. In this setting, the predator can reduce its price in such a way that the entrant cannot tell whether it has miscalculated demand.⁷

The law scholars associated with Chicago University has said that a firm having a dominant position in a market means that the firm has a larger share in that market; and if a firm with a larger market share indulges in predatory pricing strategy then it means that it will suffer huge losses during the stage of predation. Hence, whether that firm will be able to recoup those losses or not again depends on the small or big number of market players. If there are a large number of players, then it is difficult to eliminate each and every player and hence there will be chances of their comeback once the predator starts recouping its prices; also, instead of getting eradicated from the

⁵ *Ibid.*

⁶ *Ibid.*

⁷ *Ibid.*

market, the competitors can raise capital from the market and can maintain *status quo* till the predator stops using its below-cost strategy.

D. Standard Oil Case to Brooke Case: US Approach

After the enactment of the Sherman Act, the first major decision of the US court was in the *Standard Oil case*⁸ wherein a large company called *Rockefeller* had used predatory prices to harm its competitors. The Supreme Court, while accepting the matter as a case of predatory pricing, ordered the dissolution of Standard Oil Trust. However, McGee in 1958 favoured a somewhat different approach towards predatory pricing behaviour and opposed the Supreme Court's decision in the Standard Oil Case. McGee said that, "predatory strategy by a large firm such as *Standard Oil* against a much smaller rival would have been economically irrational in view of the much larger market share over which the predator must cut price. Recognising that the predator cannot sustain such losses indefinitely, the prey will not be induced to leave the market. Nor will lack of funds exclude even the smallest prey since capital markets will step in to supply funds to an efficient producer. But even if the predator could drive the prey from the market, the predator would gain little because when it later attempted to raise price, either the prey or a subsequent purchaser could reopen the failed plant".⁹ McGee's approach was applied by the Supreme Court till the *Brooke Decision*¹⁰ (1993) wherein the Court specifically ruled the strategy as an irrational one.¹¹

⁸ *Standard Oil Co. of New Jersey v. United States*, 221 U.S. 1 (1911).

⁹ Patrick Bolton, Joseph F. Brodley and Michael H. Riordan, "Predatory Pricing: Strategic Theory and Legal Policy" Available at <https://www.justice.gov/atr/predatory-pricingstrategic-theory-and-legal-policy> (last visited on 23/07/2020).

¹⁰ *Liggett & Myers Tobacco Company v. Brown & Williamson Tobacco Corporation*, 748 F. Supp. 344 (M.D.N.C. 1990) aff'd 964 F.2d 335 (4th Cir. 1992). On appeal to the Supreme Court, the case was re-captioned to reflect a change in the ownership of Liggett Group, Inc.: *Brooke Group, Ltd. v. Brown & Williamson Tobacco Corporation*, 61 U.S.L.W. 4699 (1993).

¹¹ Massimo Motta, *Competition Policy: Theory and Practice*, 12 (Cambridge University Press, New York, 1st Ed./2004).

However, McGee's theory was criticised by *Ronald Kohler*¹², *Zerbe and Cooper (the modern economists) et al.* The modern economists' approach to predatory pricing behaviour was that it was rational behaviour and could result in profits to the predator. The economists also claimed that after the *Brooke* decision many predatory pricing strategies were prevalent in the market.

The concept has evolved, with the strategic approach developing as part of the emerging business tradition influenced by technology and innovation. Consequently, predatory pricing strategy is now more likely.¹³ The new advocates claim predatory pricing to be a rational and profit-maximising strategy that includes financial market predation and other signalling theories.

Financial market predation challenges the claim put forward by McGee that the prey can raise financial support from the capital market. It is argued that it would be difficult for the financier to identify the reason behind the decline of the prey's profits. Is it because of predatory pricing or because of lack of efficiency? Hence, in such a case, the financier would be more inclined to recover its debts from the prey instead of supporting it with finance.

The other signalling theories include reputation test predation, test market and signal jamming, and cost signalling. According to these theories, the predator is assumed to be a well-informed market player who reduces prices to induce the prey to believe that the market conditions are not favourable.

E. Impact on Consumers

Consumers play a pivotal role in enhancing market competition. Economists' stance on consumers has generally persisted regarding product prices. In fact, it has always been believed that it is the price

¹² In the Ph.D. thesis "The Myth of Predatory Pricing" – thesis was considered by Supreme Court in many cases. It was also relied upon by Areeda and Turner while giving Cost Test for the determination of Predatory Pricing cases.

¹³ *Supra note 11* at 3.

which determines demand and supply of the product because consumers want quality at cheaper prices. However, apart from price there is another factor which cannot be ignored while looking at the “consumer’s choice”, i.e., brand. Consumers having a brand affection often agree to pay more for the products they are comfortable with. Especially if the prices represent competent players in the market, then it is less likely that they will mislead their consumers. It may affect the players to some extent but cannot take away their consumer’s patronage. However, anti-competitive business strategies such as predatory pricing while intending to harm market competition might also impact consumers and take away their elementary right “to choose”.¹⁴

The strategy is an abuse of one’s strength or power in the market. In order to achieve monopoly or to retain its dominant market power, the predator tends to reduce competition in the market by driving the existing competitors out of the market. In this practice, consumers become a gizmo through which the predator targets other market players. The practice involves two stages; at the first stage, the enterprise reduces its prices beyond a reasonable limit (price-cut) and at the second stage, it raises prices beyond the competitive level to recover losses suffered during the first stage (recoupment).

During the predation phase the strategy adopts a pro-consumer approach by giving them the benefits of reduced prices of quality products. At its initial stage the predator lowers its prices below the cost of production. Social well-being, in industrialisation, can be achieved only through consumer gratification. Nevertheless, whether such gratification achieved purposely for a short term leads to social well-being or not determines the extent of rationality or irrationality of such pricing strategies. In predatory pricing, the prices are set at the lower level. Though initially it benefits consumers by providing them with cheaper or very low-cost products, once the predator achieves its goal it gradually increases its prices to a profitable level where it tries to recoup its losses suffered during the stage of

¹⁴ Massimo Motta, *Competition Policy: Theory and Practice*, 12 (Cambridge University Press, New York, 1st Edn/2004).

predation. This increase in price is liable to disturb consumers at large, bringing their well-being to an end.¹⁵ The final/ultimate effect of the predatory behaviour (if successfully accomplished) will harm social well-being in the long run, because it eliminates competition from the industry.

It is known that consumers often look for discounted prices. However, the difference between the lower prices offered by a predator and the lower prices offered by the enterprise in the normal course is that in the former case the lower prices are not fixed for any period (they last as long as the predation lasts); in the latter case, the lower prices are offered naturally and their period is fixed as it is in the case of discounts offered by a branded company every winter or summer. In the former case, the benefits given to consumers are for a short time, while in the latter case the benefits are also short-term, but consumers are aware of the nature of the lower prices. Furthermore, in the former case the lower prices result in losses to the enterprise, but in the latter case though offering discounts, it does not suffer any intentional losses.

F. Irrationality

Judge Breyer asserted that, “aggressive prohibitions of predatory pricing throw away a bird in the hand for a speculative bird in the bush”. He meant that just to evade high prices in the future you cannot overlook lower prices in the present. In practical terms, predatory pricing strategy is not the same as it appears in competition law books. Though the intention of the predator is to eliminate the existing competitors from the market, it’s not easy. Were it so easy, the new entrants would also enter the market the moment the predator raised prices for recoupment of the losses suffered during the predation.¹⁶

¹⁵ Richard Whish, David Bailey, *Competition Law*, 782 (Oxford University Press, UK, 8th Ed./2015).

¹⁶ *Ibid.*

The rationality or irrationality of predatory pricing can be analysed on the basis of three things: *firstly*, an enterprise's indulgence in predatory pricing by reducing its prices; *secondly*, the predator's capability to bear losses during the predation period in comparison to the same capability of its competitors; *thirdly*, the probability to recoup losses in the future.¹⁷

The law says that the predatory pricing strategy involves short-term losses of the predator and for this reason the law mandates the predator to be a dominant enterprise. According to the law, only a dominant enterprise has the financial power to sustain its business even when it incurs losses.

The researcher negates both aspects of the strategy by firstly raising a question about the justification for a dominant enterprise to eliminate its competitors. The law defines 'dominant position' as a strengthening position where the enterprise is free from all the competitive forces surrounding it. Hence, if the enterprise is free from all the competition, then from where is the threat expected? This makes such a pricing strategy by the dominant enterprise which looks absurd and bizarre.

Secondly, even if it is assumed that a dominant enterprise is facing a threat from an equally efficient enterprise in the same relevant market, then it would be difficult to say that the efficient enterprise would be deficient in economic strength.

Moreover, that enterprise can obtain funds from another source if it senses predatory pricing in the market. Thirdly, if the predator adopts the strategy of "above one's own cost" and "below the competitor's cost" then it would not only be able to affect its competitor but would not suffer losses. In India, competitors regard a price as predatory only if it is below the predator's own cost, that is, the Average Variable Cost (AVC) which ensures that the predator is

¹⁷ Germain Gaudin, Despoina Mantzari, "Margin Squeeze: An Above-Cost Predatory Pricing Approach", 12, *Journal of Competition Law & Economics* 151-179 (2016) available at, <https://doi.org/10.1093/joclec/nhv042> (last visited on 15/10/2019).

suffering losses. It may then be that the enterprise is targeting its competitors by adopting the manipulated strategy of 'below the competitor's cost' and evading the eyes of the regulatory authorities.

Also, if the dominant enterprise targets only those players in the market whom it sees as a threat (assuming that it is so), then there would not be any need to play against all the market players as it does not make any sense. Besides, should the predator be able to eliminate all its competitors from the market, it would become a monopoly market which would definitely draw the attention of the competition enforcement authorities. Further, by targeting only its competitors the predator may reduce its prices below the AVC of its competitors rather than reducing them below its own AVC.

G. Prey's Potential to Compete in the Market and Market Structure

One assertion by McGee is that the prey being a small firm with less financial resource than the predator is enough for the predator to win. But he points out that predatory pricing is a short-term strategy (economically even a dominant firm cannot sustain its business if it suffers losses in the long run), hence, during that short term the small firm can obtain financial help from another.

If the predator can ensure, while offering predatory pricing in the market, that its financial resources are greater than those of its competitors, then the predator could put financial pressure on them. The rationale behind this strategy is that the prey can have a dominant position in one market and not in another. Hence, if the predator as a dominant enterprise of another market (where the prey is not dominant) adopts predatory pricing strategy, then the prey can take advantage of its sound financial condition in the market where it is dominant and be able to compete on a par with the predator, robbing the predator's pricing strategy of its teeth.

In the Matsushita case¹⁸, the court held that, *“the success of such schemes is inherently uncertain: the short-run loss is definite, but the long-run gain depends on successfully neutralizing the competition. Moreover, it is not enough simply to achieve monopoly power, as monopoly pricing may breed quick entry by new competitors eager to share in the excess profits. The success of any predatory scheme depends on maintaining monopoly power for long enough both to recoup the predator's losses and to harvest some additional gain. Absent some assurance that the hoped-for monopoly will materialize, and that it can be sustained for a significant period of time, the predator must make a substantial investment with no assurance that it will pay off.”*

H. Comparison with EU and US Law

If Indian law differs from US and EU law, their ways of enforcement also differ from each other to a great extent. It is to be kept in mind that unlike the US, the EU is a group of 27 European countries which acts unanimously and promotes and develops each other's interests. Hence, there exists institutional divergence between the respective countries in terms of jurisdiction. If some of them have a system under which the competition law enforcers are primarily the courts, the regulators in the EU are mostly administrative agencies. Due to this divergence, there are differences in regulating the relationship between competition law and its regulation.

Thus, while enforcing their competition laws in the case of alleged predatory pricing, their rules differ. The EU law emphasises the dominant position of the alleged predator and its sacrifice of short-term profits, whereas the US law emphasises sacrifice (i.e., suffering losses due to below-cost pricing) as well as the market conditions. The US asserts that a conducive market is necessary for successful predation, otherwise the predator would not be able to recoup losses.

¹⁸ *Matsushita Electric Industrial Co. v. Zenith Radio Corp.*, 475 U.S. 574, 592-93 (observing that recoupment might be impossible when the "alleged losses have accrued over the course of two decades"). In other cases, it might be possible to recoup the profit apparently sacrificed, and an inquiry is made into potential rewards from excluding competition. The relevant factors also include elements of market structure, particularly barriers to entry, and other factors bearing on the ability to achieve higher post-predation profits.

And so where chances of recoupment do not exist, the predatory strategy would lead to extensive losses for the predator itself and not for the market or the competitors.¹⁹

Seeing that the US antitrust law gives more importance to 'recoupment' rather than dominant position, Prof. Areeda and Turner, while explaining the 'price-cost relationship' in predatory pricing, stated that "predatory pricing would make little economic sense to a potential predator unless he had greater financial staying power than his rivals, and a very substantial prospect that the losses he incurs in the predatory campaign will be exceeded by the profits to be earned after his rivals have been destroyed".²⁰

The competition guidance manual on the official website of the Federal Trade Commission (FTC), says, "A firm's independent decision to reduce prices to a level below its own costs does not necessarily injure competition and, in fact, may simply reflect particularly vigorous competition. Instances of a large firm using low prices to drive smaller competitors out of the market in hopes of raising prices after they leave are rare. This strategy can only be successful if the short-run losses from pricing below cost will be made up by much higher prices over a longer period of time after competitors leave the market."

The Indian and EU laws have focused more on the dominant factor, while the US law has focused more on recoupment. The US law clearly says that a successful predatory pricing strategy has two stages. The strategy becomes rational only if it clears both the stages, otherwise the strategy is a big failure and hence it does not merit the attention of the regulatory authorities.

¹⁹ Herbert Hovenkamp, "Predatory Pricing under the Areeda-Turner Test", *U Iowa Legal studies* (2015), available at: <https://ssrn.com/abstract=2422120> or <http://dx.doi.org/10.2139/ssrn.2422120> (last visited at 01:44 on 01/12/2018).

²⁰ Patrick Bolton, Joseph F. Brodley and Michael H. Riordan, "Predatory Pricing: A Strategic Theory and Legal Policy", Department of Justice, USA. Available at <https://www.justice.gov/atr/predatory-pricing-strategic-theory-and-legal-policy> (last visited on 05/07/2020).

Evidently, the US antitrust law determines predatory pricing in a different manner from the laws of India and the EU. Rather than focusing only on monopoly power, it simultaneously focuses on the ‘probabilities of recoupment’. While determining predatory pricing, instead of applying the ‘standard of cost’ test, the US antitrust authorities pay attention to the recoupment test because without recoupment the predator will never be able to accomplish its predatory strategy and simultaneously the predator itself will suffer losses due to its short-term profit sacrifice.²¹

In the European Union, even though recoupment is not considered as a mandatory pre-condition to prove predatory pricing strategy, the ECJ in the case of *France Telecom*²² held that “the fact that recouping losses is not a precondition to a finding of predatory pricing in EC law does not prevent the Commission from finding the possibility of recoupment (or the lack thereof) to be a relevant factor in assessing whether or not the conduct in question is abusive. In particular, in cases where prices are lower than AVC, it may assist in excluding economic justifications other than the elimination of competition, and where prices are above AVC but below average total costs, it may assist in establishing a plan to eliminate competition”.

Unlike the US law, the Indian Competition Act, 2002 does not even use the term ‘recoupment’ in its Section 4 or in any other provision of the Act. In fact, it focuses only on two rules to prove a case of predatory pricing; one, whether the enterprise has been in a dominant position in the relevant market before engaging in predation; and second, whether its prices are below cost of production, which is determined by applying the *Areeda-Turner Test*.

Another aspect which supports the allegation of irrationality against predatory pricing strategy is that every loss-making act of an enterprise cannot be called predatory even if it is intentional. There

²¹ Louis Kaplow, “Recoupment, Market Power And Predatory Pricing”, 82, *Antitrust Law Journal*, (2018).

²² *France Telecom SA (formerly Wanadoo Interactive SA) v Commission of the European Community* (T-340/03) EU:T:2007:22; [2007] E.C.R. II-107; [2007] 1 WLUK 643; [2007] 4 C.M.L.R. 21; [2008] All E.R. (EC) 677; CFI.

are many businesses wherein at the time of closing the entities suffer intentional losses as they try to get away with the products; however, at the time of opening they try to make up for their losses. Here, the step of making up cannot be described as recoupment because the losses incurred are not with the intention of harming competitors and making up for the losses is not with the intention of harming consumers' interest. In fact, consumers are here aware of the reasons for the deep discounts offered at the time of closing and also for the increase in prices at the time of opening.

I. Conclusion

On the aspect of irrationality --a successful predatory strategy would depend on such factors as barriers to entry and barriers to re-entry by the eliminated entities. If while reducing the prices, the predator ensures that during recoupment there would not be any comeback of the eliminated entities or there would not be any entry of new entities, then only would it be able to create or retain its monopoly in the market. As Bishop and Walker said that the strategy is so irrational that the predating entity would not be able to make excess profits even if it did drive its competitors out of the market.²³ They also said that in any case even if the predator failed to raise the prices above the competitive level, then also its profit depends on how much loss the predator incurred and for how long, and how soon and by how much above the competitive price level the predator can raise the prices to recover the loss. Practically, it is not possible for a predator to look into such statistics before adopting predatory strategy.²⁴ Bishop and Walker said that "predation is more likely to be plausible strategy when the predator can target its low prices specifically against the firm it wants to exclude, rather than having to lower prices to the whole market. Equally obviously, the less the predator can raise prices post exclusion, the less likely the strategy is to be profitable". This researcher wants to add that if the predator adopts the strategy of above own cost and below competitor's cost,

²³ Simon Bishop & Mike Walker, *The Economics of EC Competition Law: Concepts, Application and Measurement*, 183, (Sweet & Maxwell, London, 2nd Ed.).

²⁴ *Ibid.*

then it would not be able to affect its competitors but the predator itself would not suffer loss. The Indian competition law regards a price as predatory one only if it is below the predator's own cost, that too Average Variable Cost (AVC) which ensures that the predator is suffering losses. Hence, there might be a chance that the enterprise is targeting its competitors by adopting a manipulated strategy such as below competitor's cost and so it is easily escaping the eyes of the regulatory authorities. Therefore, the concept of predatory pricing needs a more extended approach.²⁵

J. Suggestions

The CCI needs to adopt a compassionate approach while investigating predatory pricing in the 'new age market'. While examining the question of gain to a consumer from deep discounts offered by e-commerce industries, the gain in the shorter period needs to be seen in a longer perspective. The recoupment test examines the extent to which market power can be achieved in the future, after which prices can be raised. If the CCI were to adopt this test in investigations relating to predatory pricing by online firms, it would see that in certain areas there are network effects, and once a small association of firms has acquired market power, it would be difficult for entrants to compete with them in the future. In that future scenario, it would be possible for incumbents to raise prices, and recoup earlier losses.

The CCI suggested in "Market Study of E-Commerce Market" that e-commerce companies should regulate themselves instead of the CCI regulating them because this market is still at the nascent stage. This suggestion seems inappropriate as e-commerce market comprises those enterprises which are very old bricks-and-mortar businesses due to which they already have goodwill in the market. In appropriate cases, the CCI could rely on the essential facilities doctrine to mandate interoperability between a dominant player found indulging in the abuse of its position and other operators in

²⁵ *Delhi Vyapar Mahasangh v Flipkart Internet Private Limited and its Affiliated Entities, Bengaluru and another*, 2020 Indlaw CCI, 7.

the market. For instance, imposing interoperability rules on a dominant payments network can help extend the network effects of digital payments to the economy as a whole, rather than being limited to a closed network. The imposition of any such rules will, however, need to be balanced against factors such as the payment of fair and reasonable access fees, the complexity of institutional arrangements required to monitor such arrangements and assessment of the impact on future innovation. More generally, open standards are an important element of interoperability, and various arms of the regulatory State need to push in favour of competitive markets through interoperable open standards. Fourth, given the fast-changing nature of online businesses, there are concerns about the elapsed time between a full-fledged investigation and the determination of a violation. We suggest a two-pronged approach to address this issue.

Finding price-cutting to be an irrational strategy; one needs to recall the Standard Oil Co. case of the US wherein Standard Oil was alleged to have adopted predatory pricing strategy. The Court observed that Standard Oil had acquired monopoly in the market by entering into mergers and acquisitions with its competitors. A successful predatory pricing strategy requires the predator to have its economies of scale so that its costs will be less than the costs incurred by its competitors. While offering predatory pricing in the market, if the predator ensures that its financial resources are greater than the financial resources of its competitors then it would help the predator in putting financial pressure on the competitors. The rationale behind this strategy is that an entity can have a dominant position in one market and not in another. Hence, if the dominant enterprise of another market (where the prey is not dominant) adopts predatory pricing strategy, then the prey can take advantage of its sound financial condition from the market where it is dominant.

The Indian Competition Act, 2002 needs to be amended to include recoupment as one of the important and mandatory phases of a successful predatory strategy. In simple words, it can be explained that predatory pricing is an “investment strategy” by which investment in short-term losses would return to the predator in the

form of long-term profits. However, recoupment is possible only if the predator has the ability not only to eliminate its competitors but also prevent them from re-entering or prevent a new entry into the market.

SOCIAL MEDIA AND HATE CRIME AGAINST RELIGIOUS MINORITIES IN INDIA: FINDING THE EFFECTIVENESS OF THE INDIAN CRIMINAL JUSTICE SYSTEM

Swati Pandita¹

1. Introduction

Technology has reached even the remotest corner of our country with 41% of the population having access to internet services. This has given birth to a new set of offences i.e., Cyber Crimes. In the past decade there has been an increase in incidents of inflammatory speeches which targeted religious minorities. Social media has served as the main locus for this offence. Ditch the Label, a youth charity organisation reported a sharp 205 increase in case of online hate speech from 2019 to July, 2021.² Amnesty International which tracked crime surge in India, disclosed in its report that hate crime on social media against Muslims increased. They also said that this hate transcended to real world with reports of 37 mob attacks in the same time period. Another website 'Halt the Hate' shared 902 FIRs were

¹ Research Scholar, School of Law, Sharda University.

According to Oxford's dictionary, hate crime refers to an act of violence committed solely on the basis of nationality, race, religion, gender or caste. Reach of internet and social media has increased many folds in the last decade and so has the rate of crime against religious minorities with social media platforms like Whatsapp, Facebook, and Twitter playing an integral role. NCRB data recorded an upsurge in cases of cyber-crime with majority cases of disinformation, hate comments or speeches against people of certain religion. Hence in this paper researcher would try to examine the nexus between technology and online hate crime, and if it translates into real world violence. Also, would try to critically analyse the effectiveness of Indian criminal justice system in securing justice to the victim.

Keywords: Online hate crime, Whatsapp, Facebook, Muslims, Violence, Hate speech.

² "Study suggests connection between social media, hate crime". Hindustan Times, 2021. Available at: <https://www.hindustantimes.com/more-lifestyle/study-suggests-connection-between-social-media-hate-crime/story-bOrJ4O7ZtcGkPgvVddUabO.html> (Last Visited on January 20, 2022).

filed for incidents of hate crime out of which 113 were against cow vigilantism. Uttar Pradesh has the highest number of complaints with Tamil Nadu, Gujarat and Haryana coming next.³

In this paper researcher would delve deeper into the world of social media and hate speech and the effect it had on Indian sub-continent in the last decade. The first part of the paper will discuss in detail the meaning and legal ambit of hate speech as given under national and international jurisprudences. The second part will examine the reported incidents of hate speeches against Muslims on Facebook, Whatsapp, Twitter and Clubhouse in the past few years and action taken by Law Enforcement agencies. In the third part researcher shall discuss the legislative measures taken by state and other policy measures by social media companies to deal with this offence. The fourth part will critically analyse the effectiveness of such legislations with focus on functioning of police and judiciary. In the last part some suggestions will be provided on what remedial measures can be taken by government, police, judiciary and the social media companies to address this epidemic of hate crime.

2. Definition of Hate Crime

Oxford dictionary defines Hate Speech as “speech or writing that attacks or threatens a particular group of people, especially on the basis of race, religion or sexual orientation”. When the same is communicated by way of social media, it is termed as Online Hate Speech.

ORF study defined “hate” as “expressions that advocate incitement to harm (particularly, discrimination, hostility or violence) based upon the targets being identified with a certain social or demographic

³ “Amnesty report: Hate crimes rose sharply the first half of 2019”. The Hindu. 2021. Available at: <https://www.thehindu.com/news/national/amnesty-report-hate-crimes-rose-sharply-the-first-half-of-2019/article29598191.ece> (Last Visited on January 20, 2022).

group. It may include, but is not limited to, speech that advocates, threatens, or encourages violent acts”.⁴

2.1 International

In international jurisprudence, this offence was first addressed by *Committee on Elimination of Racial Discrimination* which asserted the need to have municipal legislations dealing with hate speech.⁵

International Covenant on Civil and Political Rights also realised that freedom to speech and expression cannot be absolute and restricted it on grounds of respect for rights and reputation of others, security of the state, public health and morals. It also prohibits violence on grounds of nationality, race, and religion.⁶

2015 report of UNESCO defines it as “expression of conflicts between different groups within and across societies”.

2.2 National

Visvanathan Committee recommends strict measures to deal with Hate speech. It suggested changes in IPC, CrPC and IT Act in order to effectively prevent the misuse of technology to create communal tension in the society.⁷

⁴ Maya Mirchandani, “Digital Hatred, Real Violence: Majoritarian Radicalisation and Social Media in India” ORF. Available at: <https://www.orfonline.org/research/43665-digital-hatred-real-violence-majoritarian-radicalisation-and-social-media-in-india/> (Last Visited on January 21, 2022).

⁵ International Covenant on Elimination of All Forms of Racial Discrimination, 1969, Article 4. Available at: <https://www.ohchr.org/en/hrbodies/cerd/pages/cerdindex.aspx> (Last Visited on January 27, 2022).

⁶ International Covenant on Civil and Political Rights, 1966, Article 20. Available at: <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx> (Last Visited on January 27, 2022).

⁷ “*Vijita Singh Panel to define offences of speech, expression*”. The Hindu, 2020. Available at: <https://www.thehindu.com/news/national/panel-to-define-offences-of-speech-expression/article34644940.ece> (Last Visited on January 22, 2022).

Bureau of Police Research and Development defines it as “language that denigrates, insults, threatens or targets individuals based on their identity and other traits”.⁸

267th report of Law Commission of India published in 2017, defined hate speech to be “an incitement to hatred against a group of persons defined in terms of race, ethnicity, gender, sexual orientation, religious belief and the like”. It also differentiates between hate speech and sedition. Latter is an offence against the state directly.⁹

3. Legislative Measures

Indian Constitution under Article 19(1) guaranteed to all its citizens the right to speak and express oneself, coupled with right to move and form associations on ideological basis. But clause (2) declared the freedom not to be absolute and imposed restrictions on grounds of “security, sovereignty and integrity of Indian State, public order, decency, morality, contempt of court, defamation, incitement to an offence and friendly relations with foreign States”

Hate speech is not defined as an exclusive offence under *Indian Penal Code*,¹⁰ but certain sections touch upon similar lines. Section 124A punishes anyone promoting enmity and disaffection against the State by deploying words or signs or visual representation. Section 153 codifies any speech made with the intention to cause riots as an offence. If anyone promotes enmity on grounds of religion, race, place of birth, residence, language etc. then it shall be punished under Section 153A. Deliberate and malicious acts done with the intention to insult any religion or religious belief is punished under Section 295A. Section 501 punishes for the publication or circulation of any statement which causes enmity or clashes between groups. Section

⁸ “Data: More than a four-fold increase in the number of cases registered for ‘Hate Speech’ between 2015 & 2020”. Available at: <https://factly.in/data-more-than-a-four-fold-increase-in-the-number-of-cases-registered-for-hate-speech-between-2015-2020/> (Last Visited on January 21, 2022).

⁹ Anandita Yadav, “Countering Hate Speech in India: Looking for Answers Beyond the law”. *ILI Law Review*, Vol. 2, Issue 2018.

¹⁰ Indian Penal Code, 1860 (Act 45 of 1860).

505 prohibits anyone from making, publishing or circulating any statement that can create ill will among any class or community.¹¹

Code of Criminal Procedure, 1973 empowers the magistrate to stop a person from doing any act which can disturb peace in the area. It gives powers to police officer to arrest without warrant or order from magistrate in case of danger to law and order.

The Representation of the People Act, 1951 also penalises use of inflammatory speeches during campaigning for elections.¹²

Information Technology Act, 2002 under Section 69A authorises the union government to block public access of information through any computer resource and in case the third party does not comply with the directions of the government, it can be imprisoned till seven years or fine can be imposed.

TEST FOR HATE SPEECH

Courts have devised a test to figure out if the speech in question is allowed under constitutional liberties or it should be prohibited as Hate Speech. It takes three aspects in consideration. The words have to be extreme in nature, there should be some incitement to commit an offence and it should have the potential to impact to listeners to such extent that they get ready to commit the offence.

In *Shreya Singhal case*,¹³ Court held that a speech can be restricted only if it incites the audience to commit an offence. If there is no incitement, the words even if offensive cannot be limited by law enforcement agencies.

4. Measures Taken by Companies

Facebook defines hate speech as “direct attack on people on the basis of race, ethnicity, national origin, disability, religious affiliation, caste, disability, sexual orientation, gender identity and serious disease.”

¹¹ *Supra* Note 9.

¹² The Representation of People Act 1951 (Act 43 of 1951), ss123(3A) and 125.

¹³ AIR 2015 SC 1523; Writ Petition (Criminal) No. 167 of 2012.

Initially these social media companies tried to dodge accountability for content posted by users. But after intervention by the government and civil society they have devised regulations to combat hate speech.

Meta has made their policy very clear, that they prohibit any kind of dehumanising speech, harmful stereotypes or slurs on their platform. Any such content in written or visual form shall be removed and account may be suspended in certain circumstances. They also interact with NGOs, policymakers, academics and experts to develop their community standards for photos, videos and posts and have built a team of reviewers which detect violations with the help of technology.¹⁴

In case any video or post shows violence against any community, Facebook flags it with warning label which leads to significant reduction in users accessing it.¹⁵

Despite all the community standards in place, Meta has been accused of siding with right-wing accounts not just in India but in US too.

Twitter has taken down right-wing accounts which promotes ill will and can lead to real life clashes.

5. Incidents of Online Hate Speech against Religious Minorities

Online hate speech is emerging as a major concern for almost all democratic countries. One of the reasons it is so prevalent in Indian sub-continent is the polarization done by political parties to secure vote and lack of digital education. Another reason is lack of sensitivity shown by social media companies. Facebook has been

¹⁴ Microsoft, “*Microsoft Releases Digital Civility Index on Safer Internet Day*”, Microsoft News Center India. Available at: <https://www.microsoft.com/en-us/online-safety/digital-civility?activetab=dcireports%3aprimar3> (last visited on 26 January, 2022).

¹⁵ Guy Rosen and VP Integrity, “*An Update on Our Work to Keep People Informed and Limit Misinformation About COVID-19.*” Available at: <https://about.fb.com/news/2020/04/covid-19-misinfo-update/> (last visited on 26 January, 2022).

accused of deliberately not deleting content which was offensive to religious minorities. And almost every social media lack the feature of recognising offensive words in local languages.¹⁶

Equity Labs conducted a study on Hateful content on social media and concluded that majority i.e., 37% of the hate speech posts were directed towards Muslims. Posts talking about sexualisation of Kashmir Muslim women, genocide of Muslims to make India a Hindu Land, raping anti BJP Muslim journalists like Rana Ayub were shared and seen by millions of users. During US Congressional briefing, experts remarked that there are early signs of genocide in Assam and Kashmir. Muslims are systematically targeted online and offline.

5.1 Tablighi Jamaat

1000 Tablighi Jamaat members were present at the Nizamuddin Markaz when Delhi government prohibited all gatherings in wake of Covid-19 cases. Some members who had travelled to different states tested positive few days later and this started the vilifying of the whole Muslim community. A central government minister labeled the gathering as ‘tablighi crime’. The issue was reported in such a manner that villianised the whole community making solely making them responsible for the intentional spread of the virus. People on social media went to the extent of saying it is ‘Corona Jihad’ ‘Thook Jihad’. This also resulted in people calling for boycott of Muslim doctors and small business owners or sellers on social media. Multiple fake videos were also circulated with Muslims being shown to deliberately spit on people to spread the strain.¹⁷

This online hate speech transcended to real life too, when a Muslim security personnel was held responsible for spreading the virus to his

¹⁶ Archit Lohan, “*Countering Disinformation and Hate Speech Online: Regulation and User Behavioural Change*”. ORF. Available at: <https://www.orfonline.org/research/countering-disinformation-and-hate-speech-online/> (last visited on 22, January, 2022).

¹⁷ Jayshree Bajoria, “*Corona Jihad is only the Latest Manifestation: Islamophobia in India has been Years in the Making*.” Human Rights Watch.

employers. A police complaint was filed against him. A vegetable seller was beaten with more than a dozen similar cases of harassment and physical abuse surfaced in a short time span.¹⁸

Muslim community was in fear after this incident and what added fuel to the fire were Whatsapp messages saying state was testing Muslims and giving fake Covid positive reports and later injecting them with blood of a patient. This resulted in them attacking the health care workers with stones in Indore, Madhya Pradesh.

Bombay High Court's Aurangabad Bench cleared the air by quashing the 29 FIRs against them. It held that a propaganda was created online against Jamaat members to virtually persecute them and put all blame on the Markaz for spread of Covid-19. "Political government tries to find scapegoat and there is a probability that these foreigners were chosen to make scapegoats".

5.2 Haridwar Hate Speech

In December 2021 videos of a gathering of Hindu saints in Haridwar was circulated on twitter. The topic of discussion was "Future of Hindu Dharma in Islamic India". Videos showed that Sadhus called for genocide of Muslims and asked the audience to replicate what happened in Myanmar. That clip received support from members of right-wing Hindu organisations on social media. After the clip went viral, NRI groups started a tweet storm with the hashtag "*Stop Indian Muslim Genocide*" to condemn the hate speech calling for killing of Muslims.¹⁹

¹⁸ "Indore: Muslim Man Beaten for Selling Bangles in 'Hindu Area' Now Charged Under POCSO". The Wire. Available at: <https://thewire.in/rights/indore-muslim-bangle-seller-beaten-up-by-hindu-mob-now-charged-under-pocso> (last visited on 26 January, 2022).

¹⁹ "Another case against Haridwar hate speech accused Jitendra Tyagi: Police". Hindustan Times. Available at: <https://www.hindustantimes.com/india-news/another-case-against-haridwar-hate-speech-accused-jitendra-tyagi-police-101643744084363.html> (last visited on 29 January, 2022).

Fali Nariman, former judge of the Supreme Court of India, criticised the BJP government for not taking adequate action against the people responsible.²⁰ Members of bar wrote to ailing CJI Venkataraman to take suo moto cognizance of the issue. Supreme Court heard a petition in January and asked Delhi and Uttarakhand Police to respond to the petition regarding action taken by them against the culprits.

Uttarakhand police later filed an FIR against one named and other unnamed speakers under....for promoting hatred among religious groups. Another FIR was filed against the organisers of the event. Delhi Police also filed a complaint against an employee of Sudarshan News Channel. Two people have been arrested and are now interrogated in police custody.²¹

5.3 Tekfog investigation

In 2020, an anonymous twitter account of a person, claiming to be an ex-IT cell worker of BJP government raised concern in civil liberties group when he reported the use of an application- “Tekfog” for trolling accounts who criticise the working of the government. The wire, an Independent media house, investigated the issue and reported that the app was used to hijack the trending section of Twitter and Facebook to amplify the right-wing narrative. This resulted in showing anti-Muslim hate speech having more popularity on social media. Also the accounts used to trend the hash tag were auto generated and not real users. Another alarming feature of the app was that it had a database of private users categorised according to religion and political inclination. It allowed the members of IT cell to send auto generated abusive messages to such users. The wire

²⁰ “Ruling Party Not Only Silent On Hate Speech But Also Endorsing It: Justice Robinton Nariman”. LiveLaw. Available at: <https://www.livelaw.in/top-stories/ruling-party-not-only-silent-on-hate-speech-but-also-endorsing-it-justice-nariman-189820> (last visited on 31 January, 2022).

²¹ “Dharam Sansad: Hate speech accused Wasim Rizvi, Yati Narsinghanand detained by Uttarakhand Police”. India Today. Available at: [https://www.indiatoday.in/india/story/haridwar-dharam-sansad-case-wasim-rizvi-detained-arrested-hate-speech-uttarakhand-police-\(last-visited-on-31-January-2022\)](https://www.indiatoday.in/india/story/haridwar-dharam-sansad-case-wasim-rizvi-detained-arrested-hate-speech-uttarakhand-police-(last-visited-on-31-January-2022)).

analysed this feature and found it that many derogatory messages were sent to female journalists and political activists and majority of them were Muslims.²²

Swati Chaturvedi, a journalist, explained in detail in her book how ruling party has used social media to spread communal hatred against Muslims by promoting and following user accounts which threaten anti BJP accounts with death and rape threats and label them as anti-national.²³

5.4 Love Jihad

BJP's Haryana spokesperson in a tweet came out in support of lynchings on communal grounds. He said inter faith marriages between Hindu girl and Muslim boy is love jihad and cannot be tolerated in this society. In the viral video he could be heard saying "We are 100 crore and they (referring to Muslims) are 20 crore". Police has not taken any action against the culprits as of now.²⁴

Social media is full of posts and tweets that spread this propaganda of love jihad and urge the Hindu community to take revenge on Muslims either by killing them or converting their girls into Hinduism from Islam. This narrative was executed on ground with passing of anti-conversion bill in Uttar Pradesh. Till date 49 people have been arrested and only in 2 cases the victim was the converted woman.²⁵

²² "Tek Fog: An App With BJP Footprints for Cyber Troops to Automate Hate, Manipulate Trends". The Wire. Available at: <https://thewire.in/tekfog/en/1.html> (last visited on 31 January, 2022)

²³ "I Am a Troll" by Swati Chaturvedi". Financial Times. Available at: <https://www.ft.com/content/6dd90462-e3bd-11e6-8405-9e5580d6e5fb> (last visited on 27 January, 2022)

²⁴ "Haryana BJP Spokesperson Makes Yet Another Communal Speech at Mahapanchayat". The Wire. Available at: <https://thewire.in/communalism/haryana-bjp-spokesperson-makes-yet-another-communal-speech-at-mahapanchayat> (last visited on 26 January, 2022)

²⁵ "2 from Delhi arrested by U.P. police under anti-conversion law". The Hindu. Available at: <https://www.thehindu.com/news/national/other-states/2-from-delhi-arrested-by-up-police-under-anti-conversion-law/article34885705.ece> (last visited on 31 January, 2022)

5.5 Auction of Muslim women on Clubhouse

The audio only application-Clubhouse has been extensively used since its launch to spread fake news and hate speech against religious minorities. Recently screen recording of rooms went viral where people could be heard auctioning Muslim women and making derogatory remarks about their bodies. Many users also complained of right wingers creating room to insult their religion and would abuse anyone who comes up on the panel to defend it.²⁶

In July 2021, a strange incident came to light. Social media was flooded with pictures of Muslim women being auctioned on an app 'Sulli Deals'. *Sulli* is a derogatory term used for Muslim women. Months later another app was created 'Bulli Bai'. The only common factor among these Muslim women journalists, artists, teachers, researchers, and political activists were critics of the ruling party and already used to get threats and abuses online.²⁷

Git Hub-the platform supporting the applications, later deleted them on receiving complaints. Mumbai and Delhi Police have arrested the prime accused in the case and trial shall begin soon.

5.6 Muzzafranagar Violence-Fake video of an incident that happened in Pakistan was circulated on social media. Viral video showed two Hindu brothers getting lynched by a Muslim mob for killing a person from the community. This sparked unrest in the Muzaffranagar area and resulted in riots in which 42 Muslims and 20 Hindus were killed. A senior police officer investigating the case commented that "It was circulated only to inflame sentiments". A political leader among others was arrested for disrupting harmony.

²⁶ "The women facing rape threats and abuses on Clubhouse". BBC. Available at: <https://www.bbc.com/news/world-asia-india-60020888> (last visited on 31 January, 2022).

²⁷ "Bulli Bai, Sulli Deals: On Being Put Up for 'Auction' as an Indian Muslim Woman". The Wire. Available at: <https://thewire.in/communalism/indian-muslim-woman-auction-bulli-bai> (last visited on 30 January, 2022).

6. Suggestions

- Hate speech laws are misused by the State to incarcerate any kind of political dissent. A clear definition is needed to steer out the ambiguities. Every speech which criticises a religion cannot be termed as hate speech and the person should not be prosecuted as a terrorist under stringent penal laws dealing with threat to security of the State. Legislators need to strike a balance between the freedom to speech and expression and the offence of hate speech.²⁸
- Also there need to be a clear cut differentiation between sedition under Section 124A of IPC and online hate speech, as suggested by a select committee in 1897 while reviewing the draft.
- There should be more representation of religious minorities in Parliament and judiciary so as to end the inherent bias against Muslim community.
- Strict action should be taken against politicians by Election Commission of India if they engage in online hate speech as this is bound to influence masses at a larger scale.
- Police and judiciary should ensure that there is timely intervention and effective prosecution in complaints of online hate speech. For speedy investigation and disposal a limitation period should be set up.
- States should provide adequate compensation incase the speech leads to violence in real life.
- Social Media companies should hire more reviewers and improve their community standards reviewing policy. More Indian

²⁸ Annie Gowen and Manas Sharma, "Rising Hate in India", *The Washington Post*. Available at: <https://www.washingtonpost.com/graphics/2018/world/reports-of-hate-crime-cases-have-spiked-in-india/> (last visited on 28 January, 2022).

languages should be included to cover a wide range of slurs or dehumanising remarks online.

- Government should set up monitoring committees at state level who will monitor the hateful content online, and file complaint on behalf of the victim.
- Meta should also strive to be more transparent in their approach to fight hateful content. They should conduct a basic human rights assessment of their operations to analyse what issue they need to improve upon.
- They should improve upon their recommendation algorithm so that hate speech and fake news is not promoted.
- Technology companies should be made responsible for not taking action against the offending post in a timely manner. A parliamentary committee should be appointed to examine how liability could be fixed on these companies and to what extent. We can draw from French and German legislations which impose a hefty fine in case companies fail to take down the offensive content in a stipulated time period.
- Non-legal measures should also be explored like digital education about the rights of a member of religious minority to seek redressal and the consequences of promoting hate speech online, and fact checking websites.

7. Conclusion

Social media has liberalised the internet but it is one of the major causes for proliferation of hateful content. Right to speak is the most important right but it cannot go beyond certain limits. In a plural democracy, hate speech needs to be regulated to protect the interest of religious minorities. Fake news or communal content is leading to real life mob lynchings and riots.

This paper discussed the recent incidents of hate speech against the biggest religious minority i.e., Muslims in India. The response of police and judiciary was far from satisfactory. There is no provision under IT Act that can regulate hateful content against religious minorities. Other criminal statutes don't have a definition of hate speech which leads to law getting misused more than it serves the purpose. Self-regulation and education by technology companies has so far proved to be ineffective.

AN OVERVIEW OF SEED PRODUCTION PROTECTION AND CERTIFICATION IN INDIA WITH SPECIAL REFERENCE TO KASHMIR VALLEY

Prof. Beauty Banday*
Prof. Fareed Ahmad Rafiqi**
Nazia Fayaz Azad***

ABSTRACT

Agriculture has remained the backbone of an economy and in need of legal protection. Seeds form an important outcome of agricultural process and technology has made a tremendous impact on production, process and propagation of seeds which needed legal intervention and hence PPVFR in India in the background of international consensus. However, has the law worked towards protection of seeds in an effective manner that needs to be probed into?

Seeds are the most important input the farmers rely upon for assumed yield. Seeds are the foundation of Agriculture. Seed symbolizes life as it paves the way for several varieties and crops for the benefit of Humans and the economy. Since most of the farming community is illiterate or semi-literate, it is the responsibility of the Government to frame rules that govern the production and distribution of quality seeds to the farming community.

This Paper shall analyze how seeds are formed and released as per their quality and practice. It shall also see how law and policy offers the protection.

Key Words: Breeder Seed, Multiplication of Seeds, TLS, PPVFR, Foundation Seed etc.

* Head & Dean, Department of Law, University of Kashmir 190006 (UT J&K), India (can be contacted at deanlaw@uok.edu.in.na).

** Principal, Vitasta Law College, Pohru crossing Nowgam, Srinagar, Kashmir (UT J&K), India (can be contacted at fahmadmuqam@gmail.com).

*** Ph.D. Scholar, Department of Law, University of Kashmir, 190006 (UT J&K), India (can be contacted at azadnaziafayaz@gmail.com).

1. Introduction

Modern seed supply systems are primarily dependent on improved varieties which are developed by crop breeding programmes. The seeds of these candidate varieties are officially tested for yield, adaptability and resistance to biotic and abiotic stress in coordinated trials for at least three years. The promising varieties are identified in workshops of respective crop improvement projects.¹

The varieties are notified after their release for general cultivation by Central Sub-Committee on Crop Standards, Release and Notification of Varieties. This committee takes into consideration the performance of a candidate variety in the trials under the All India Coordinated Research Improvement Project of a given crop in respect of yield, disease, and pest resistance, adaptability to specific climate conditions and other economically desirable characteristics. Only varieties superior to the existing ones in respect of desirable characters are released and notified. The varieties which perform better at state level are released in the state by State Variety Release Committee. However, notification of varieties is done only by Central Seed Committee after its approval by Central Sub-Committee on Crop Standards, Release and Notification.²

2. Seed Multiplication System

At the time of release of a variety, small quantity of seed, normally known as nucleus seed, is available with the plant breeder. Commercial quantity of seed is produced after a series of multiplication steps. Starting from maintenance programme in which nucleus seed is produced by the breeder or the sponsored breeder, the seed is multiplied in a generation system of breeder, foundation and certified seed. Each time a variety goes through the cycle of

¹ The Seed Testing Laboratory is located at Division of Seed Science & Technology, Indian Agricultural Research Institute, New Delhi and has been notified as the Central Seed Testing Laboratory and it was established during 1960, 30-Apr-2020

² Chopra V. L. (2004). Plant Breeding Theory and Practice, Second edition. Oxford and IBH Publishing Com. Pvt. Ltd. New Delhi, Calcutta.

multiplication; there is a chance of its deterioration through mechanical admixture, pollination by alien pollen or mutations. The possibility of contamination by alien pollen is greater in cross-pollinated species than in the self-fertilized ones. However, even in species classified as self-fertilizing, there can be small proportion of cross-fertilization.³

The longer the sequence of multiplication, the greater the possibility that one or a combination of factors may occur to erode the essential qualities of a cultivar. Across three generations the State and National Seeds Corporations have been supplying seeds for normal produce to the farms of progressive growers. This seed supplied to private seed companies and farmers for sowing leads to the commercialization and often affects the genetic purity of the gene. However, because of large sized breeder seed crop maintaining standards are not feasible especially when multiplied outside their 'area of origin', with differential response to photo-period and temperature in the new environment. Development and seed production of a set of genotypes, thus usually alter genetic composition of the new area. Though, growing seed for one generation in a different environment does not have a significant effect, but over generations the effect can be cumulative.⁴

These considerations have led to the generation system of seed multiplication which is based on number of generations the seed is removed from the maintenance programme. In this system the seed is multiplied through the following three classes:

2.1. Breeder Seed

Breeder seed is produced from nucleus seed under the supervision of a qualified plant breeder in a research institute/agricultural university.

³ Smith and Whittington (1991) reported that out pollination in wheat occurs with a frequency of 4% and Bickelmann (1993) found 1.1 to 8.7% of out crossing in oats.

⁴ Prasad, G. S., Rao, C. S., Suneetha, K., Muralidharan, K. & Siddiq, E. A. (2022). Impact of breeder seed multiplication and certified quality seed distribution on rice production in India. *CABI Agriculture and Bioscience*, 3(1), 1-22.

This provides initial seed source for recurring increase of foundation seed. Breeder seed is monitored by a joint inspection team of scientists and officials of Seed Certification Agency and National or State Seed Corporation.⁵

2.2. Foundation Seed

Foundation seed is the progeny of breeder seed. Foundation seed can also be produced from breeder seed particularly in crops like groundnut where seed multiplication ratio is low. This class of seed is known as foundation seed stage-I and it can be clearly traced to breeder seed. This is also known as certified foundation seed since its production is supervised and approved by the certification agency.⁶ Foundation seed is produced by State Agricultural Universities, State Farm Corporation of India, National Seeds Corporation, State Seed Corporations or some of the leading private seed companies under the technical officers. Foundation seed is known as basic seed in certain countries under Organization for Economic Co-operation and Development (OECD)⁷ Seed Certification Schemes.⁸ The OECD Guidelines for Multinational Enterprises (OECD Guidelines) are recommendations from governments to multinational enterprises on responsible business conduct. The OECD Guidelines set

⁵ Kumar, N. & Singh, M. (2019). Production and maintenance of nucleus and breeder's seed *Annals of Horticulture*, 12(1), 88-92.

⁶ Foundation seed, (or Basic seed): Foundation seed, also known as basic seed, is the descendent of breeder seed and is produced under conditions that ensure maintaining genetic purity and identity 13-Mar-2020 available at : <https://www.agrilinks.org/post/seed-system-definitions>

⁷ The Organization for Economic Cooperation and Development (OECD) is a unique forum where the governments of 37 democracies with market-based economies collaborate to develop policy standards to promote sustainable economic growth.

⁸ Jason Nickerson, Seed System Definitions, March 13, 2020 available at : <https://www.agrilinks.org/post/>; see also *OECD Seed Scheme Rules, Regulations and Guidelines*, it contains the 2022 edition of the *Rules and Regulations* of the *OECD Seed Schemes* paving way for global approach to seed industry.

standards for responsible business conduct across a range of issues such as human rights, labour rights, and the environment.⁹

2.3. Certified Seed

Certified seed is the progeny of foundation seed and its production is supervised and approved. Its reproduction does not exceed three generations beyond foundation seed stage-I. The seed of the class is normally produced by the State and National Seeds Corporations and private seed companies on the farms of progressive growers. The seed is the commercial seed which is available to the farmers for sowing.¹⁰

In the generation system of seed multiplication, the genetic purity of breeder seed crop is maintained at 100%. However, because of large sized multiplication plots, strict genetic purity standards are not feasible in practice at foundation and certified seed production stages. Therefore, as per minimum seed certification standards, the maximum permissible off types in rice, wheat and sorghum are as follows.

Crop	Max. permissible off-type in Foundation %	Certified
Rice & Wheat	0.05	0.20
Sorghum (hybrid)	0.05	0.10

Similarly, for other crops variable frequencies of off types are allowed in the foundation and certified seed production plots. Standards for germination, physical purity and seed health are practically similar for

⁹ The OECD Guidelines, available at : [https:// www.oecdwatch.org/oecd-ncps/](https://www.oecdwatch.org/oecd-ncps/)

¹⁰ The OECD Schemes for the Varietal Certification of Seed, established in 1958, promotes the use of certified agriculture seed that is of consistently high quality. These seeds are produced – and officially controlled – according to a set of harmonized procedures put in place in the 61 participating countries.

foundation and carried seed classes. However, they differ with regards to genetic purity, which is slightly lower in the latter class. India is trying to maintain its tryst with standardizing the quality and purity of the seeds compatible with international certification level which was materialized in the latest endeavors in this regard both at national as well as regional level.¹¹

2.4. Truthfully Labeled Seed (TLS)

One more class of seeds is truthfully labeled seed. This type of seeds does not come under the purview of the Department of Seed Certification. This kind of seeds is tested only for its physical purity and germination. By this method, any farmer can produce seeds and market it as truthfully labeled seeds. Labeling is compulsory but certification is voluntary.¹²

3. Seed Quality Control

Seed quality in India is legally controlled by the Seeds Act, 1966.¹³ According to this Act all seeds of notified varieties/kinds sold to farmers must meet the minimum standards of germination and physical purity.¹⁴ The seed should be packed in a suitable container and a label has to be affixed on the container. Information about

¹¹ The seed testing lab established by the Telangana State Seed and Organic Certification Authority (TSSOCA) with the nomenclature of Telangana International Seed Testing Authority (TISTA) at Rajendranagar here has secured the recognition of the International Seed Testing Authority (ISTA). *The Hindu*, Feb.10, 2022.

¹² See *supra* note 2.

¹³ The main features of the Seeds Act, 1966 are: 1. It is applicable only to notified kinds/varieties of seed and vegetatively propagating materials used for sowing. 2. It provides for the formation of an apex advisory body, namely, the Central Seed Committee; the Central Seed Certification Board, Establishment of Seed Certification Agencies, and Central and State Seed Testing Laboratories, etc.

¹⁴ The responsibilities for enforcing various provisions regarding regulation of sale of seeds of notified kinds/ varieties rest with the seed inspectors. The seed inspector is required to inspect of frequently as may be required at all places used for the growing, storage or sale of any seed of any notified kind or variety; Satisfy himself that the conditions of the certificates/labels are being observed.

germination, physical purity, variety, date of test, name of the seed producer has to be given on the label. The germination as given on the label is valid for nine months from the test date, after which it has to be revalidated for a subsequent period of six months after re-test.¹⁵

4. Seed Certification: Purpose of Seed Certification

The purpose of seed certification is to maintain and make available to farmers high quality seeds and propagating materials of notified kind and varieties so grown and handled as to ensure cultivar identity and purity. Seed certification is also designed to achieve prescribed standards of seed germination, physical purity and seed borne diseases.¹⁶

Ideally in a seed production programme, the goal is to achieve 100 per cent genetic and physical purity, germination and complete freedom from diseases and pests. In practice, due to environmental, biological and human factors, this goal is seldom realized. Hence minimum standards are fixed for each quality attribute which is generally achievable in a given set of conditions of a country. Receipt and scrutiny of application from seed producer for certification of a seed production plot, verification of seed source through checking of certification tag, seed container, purchase records etc. of the seed to be used for multiplication. It requires land requirement to ensure that

¹⁵ A variety of seed containing any technology considered harmful or potentially harmful to environment and ecology shall not be registered. These transgenic seeds can only be registered after the applicant has obtained clearance from Environment (protection) Act, 1986. Every seed producer and dealer, and horticulture nursery has to be registered with state government. The Seed Bill, 2004 proposed to establish Central Seed Committee and sub committees. Any type of seed which is for sale has to be registered with Registration sub-committee. The registration is valid 18 years for long duration perennial crops and for 15 years for annual/biennial crops. All registered seed has to meet the minimum standard with respect to the proportion of seed that must germinate, the level of physical and genetic purity and the permitted proportion of diseased seeds.

¹⁶ Phases of seed certification: Receipt and scrutiny of application; Verification of seed source; Field inspection; Post-harvest supervision of seed crops; Seed sampling and testing; Labelling, tagging, sealing and grant of certificate.

land to be used for seed production is free of volunteer plant with prescribed isolation distance.¹⁷

5. Seeds Bill, 2004: Salient Features & Current Status

According to a report published in Economic Times (February 13, 2017), the government is planning to revive the Seeds Bill, which was first introduced in 2004 and last in 2014 but has never seen the light of the day. This bill should be seen in the context of Seed Act, 1966 and the Protection of Plant Varieties and Farmers' Rights Act, 2001 (PPVFR). PPVFR Act set up a framework to protect the intellectual property rights of breeder and on the other hand safeguarding the rights of farmers.¹⁸ Import of seed would be subject to Plant Quarantine Order, 2003 or any corresponding Order under Destructive Insect and Pest Act, 1914. Such seeds should also conform to the minimum standard mentioned above. The government can restrict export of seed if it feels that food security of India is affected.¹⁹

The Standing Committee of Parliament recommended that the Plant Protection of Varieties and Farmers Rights Act, 2001 be made fully operative before the Seeds Bill, 2004 is passed. The Seeds Bill should aim to strengthen the integrated growth of farmers and commercial seed systems, so that every farmer has access to high quality

¹⁷ Udit Joshi, et al, Seed certification: importance, steps involved and types of seeds,
https://www.researchgate.net/publication/343999374_Seed_certification_importance_steps_involved_and_types_of_seeds

¹⁸ The bill was revived in 2014 after a decade but was again put on hold in 2015 after the backlash against the provisions relating to genetically modified (GM) seeds. This bill, if passed, has the potential to boost the agricultural growth. Recently NITI Aayog advocated for massive research in the field of improving seeds varieties including GM ones.

¹⁹ The penalty for contravening any provision of the Act or selling misbranded or substandard seeds is a fine ranging between Rs. 25,000 and Rs. 1 lakh. The penalty for giving false information may incur a prison term for up to a year and/or a fine of up to Rs. 5 lakh.

seed/planting material at the right time and place and at appropriate prices.²⁰

The purpose of field inspection is to ascertain whether the seed crop conforms to the minimum standards of genetic purity, health, and incidence. Broadly field inspection involves first to check if the plants of a seed crop conform to the description of the cultivar at that stage of growth.

6. Structure of Indian Seed Industry and Future Perspectives

India is endowed with varied agro-climatic conditions suitable for the production of a wide variety of seeds. Coupled with expertise in major areas of seed production, quality control and evaluation, an advanced system of variety development, testing and release and a network of seed producing and certification agencies, our country has a tremendous potential for meeting the increasing demand for quality seed but also to emerge as a major force in the global seed market. The seed sector has made impressive strides over the last three decades. From a modest beginning of 465 hectares under seed production in 1962-63, the country today has an area of nearly 5 lakh hectares under certified seed production. Similarly, the quantum of quality seed distribution has increased from 14 lakh quintals in 1979-80 to 75.60 lakh quintals in 1997-98.²¹

The COVID-19 pandemic affected the seed industry, with the availability of quality seeds being the greatest challenge for farmers. The pandemic and the restrictions imposed by governments restricted the production, certification, and international trade of seeds, with serious consequences for farmers. Despite the various restrictions in the turnover of the seeds industry for 2021, vegetable

²⁰ Standing Committee Report Summary, The Seeds Bill, 2004, PRS Legislative Report.

²¹ India Seed Market - Growth, Trends, COVID-19 Impact, and Forecasts (2022 - 2027) ; The Indian seed market is projected to record a CAGR of 6.8% during the forecast period 2022-2027.

seeds contributed the most with a 30% share, followed by cotton with about 18%, maize with 13%, and paddy with 10%.

There has been an increase in hybrid seed penetration in multiple crops in order to address the increasing food demand-supply gap in the country. Due to stagnant growth observed in the arable land and a constantly growing population, the per capita arable land has been declining. These factors, along with poor crop productivity, are likely to lead to pressure on the food supply in the country. In India, hybrid seed penetration is high in cotton (90%), corn (60%), limited cereals, such as sorghum and pearl millet, and oilseeds, such as sunflower hybridization (80%). However, penetration is still very low in major cereals, such as paddy and wheat (5%). Cotton hybridization is almost reaching saturation, as BT cotton is sown in over 90% of the cotton-producing area in the country. Hybridization in corn, paddy, and vegetables is estimated to drive the sector's growth during the forecast period. The patenting process in India is not very vigorous, enabling companies to replicate better-performing seeds in the market place. In addition, after the discovery of a successful hybrid, seed multiplication needs many rounds of sowing. Therefore, the increasing government initiatives and investments by players are expected to drive the market in the country during the forecast period.²²

Research Institutes and Project Directorates of Indian Council of Agricultural Research and State Agricultural Universities are primarily responsible for the production of breeder seed. The foundation certified seed is produced by State Seed Corporations, National Seed Corporation, and State Farms Corporation of India and private seed companies.²³ This clearly brings out the potential which exists for

²² The seed sector in the country comprises of two national level Seed Corporations, i.e., National Seed Corporation and State Farm Corporation of India, 13 State Seed Corporations and more than 200 prominent private seed companies. For quality control and certification, there are 19 State Seed Certification Agencies and 96 State Seed Testing Laboratories.

²³ Though the private sector has started to play a significant role in the production and distribution of seeds, particularly in the last decade, the organized seed sector for food crops continues to be dominated by public

levels of awareness among farmers about the importance of quality seeds and streamlining of the system for production and distribution of the seeds are necessary if this potential is to be realized. In addition, significant opportunities have also opened up for export of seeds of several varieties of crops for which India has a comparative advantage.²⁴

The permission for FDI up to 100% would encourage infusion of foreign investment into the seed sector and would also facilitate indigenous seed companies for strengthening of Research and Development activities for development of Seeds of better varieties. Government of India had initially introduced the New Policy on Seed Development in October, 1988 with the objective of making the planting material available anywhere in the world to Indian farmers for increasing productivity and production. The policy provided for liberal imports (subject to certain parameters and regulations) to achieve this objective as well as to encourage the growth of exports in seeds. Important changes in the national and international economic environment have taken place since the announcement of the Seed Policy of 1988. Investment in the seed sector has been considerably liberalized. While the change in policy in 1987 facilitated investment in the MRTP, FERA companies, the new industrial policy of 1991 identified investment in the seed sector as a high priority area in which foreign equity participation would be encouraged. India has also signed the GATT Treaty on Agriculture which is expected to give a boost to trade in agricultural commodities with significant export opportunities for developing countries. By acceding to the

sector. This sector accounts only for about 7 to 10% of the total seed distributed in the country in the major food crops *viz.* wheat and rice. The production of the unorganized sector and the use of saved seed by farmers accounts for the other about 90%.

²⁴ As per extant policy, FDI is permitted up to 100% under the automatic route in development and production of seeds and planting material subject to certain conditions as mentioned in “Circular No. 1 of 2011: Consolidated FDI Policy” issued by Department of Industrial Policy and Promotion, Ministry of Commerce & Industry, Government of India. The permission for FDI up to 100% would encourage infusion of foreign investment into the seed sector and would also facilitate indigenous seed companies for strengthening of Research and Development activities for development of Seeds of better varieties.

Agreement on Trade Related Intellectual Property Right (TRIPS), India is required to enact legislation for plant variety protection²⁵.

As per World Seed Trade Statistics, India has sixth largest size of domestic seed market in the world, estimated to be at about 1300 million dollars. However, India's share in global trade in seeds (import & export) is of only about 37 million dollars. To give a boost to seed export, India has decided to participate in OECD Seed Schemes for the following categories of crops: Grasses and legumes; Crucifers and other oil or fibre species; Cereals; Maize and sorghum; Vegetables.²⁶ The Scheme authorizes use of labels and certificates for seed produced and processed for international trade according to agreed principles.²⁷ The department is in the process of completing other formalities under the OECD Seed Scheme guidelines before the certification work gets started.

7. Intellectual Property Rights and Seed Protection

It is widely accepted that "Plant Variety Protection" (PVP), which grants Intellectual Property Rights" (IPR) to eligible plant varieties is essential to increase the availability of good quality seed of improved varieties. Breeding for high yielding varieties with all other desired characteristics requires considerable investments in trained staff and the allocation of funds. If PVP is not granted, the private seed sector will not be willing to invest in plant breeding. At the same time, the availability of seed of improved and protected varieties at low prices in NENA and ECO countries and the granting of farmers' rights as

²⁵ India enacted the Protection of Plant Variety and Farmers Act, 2001 to fulfil the obligation TRIPS Agreement.

²⁶ OECD Seed Schemes is one of the international frameworks available for certification of agricultural seeds moving in international trade. The objective of the OECD Seed Schemes is to encourage use of seeds of consistently high quality in participating countries.

²⁷ The Joint Secretary (Seeds) in the Department of Agriculture & Cooperation has been nominated as the National Designated Authority. Further, Heads of Seed Certification Agencies in Karnataka, Andhra Pradesh, Tamil Nadu, Maharashtra, Rajasthan, Uttarakhand, Uttar Pradesh, Haryana, Bihar and Assam have been nominated as the Designated Authorities under the Scheme to undertake certification work under OECD Seed Schemes.

defined in the FAO fora are issues to be considered when establishing PVP laws.²⁸ The agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) is one of the outcomes of the Uruguay Round Agreements under the World Trade Organization (WTO). The TRIPS Agreement was established on January 1, 1995 and is considered the most remarkable multilateral agreement on intellectual property. In regard to plants, the TRIPS Agreement addresses issues related to intellectual property protection of plant varieties, requiring protection either by patents or by a sui generis effective system or by a combination of both.

Most countries of the region have laws, which require that varieties should be registered to be released for commercialization. However, many countries do not have legislation for PVP.²⁹

Major breeding programmes have been carried out by government employees working in national research institutions or universities that did not seek any reward for their newly developed varieties. The great majority of seed (90%) is produced by the informal system, which makes it difficult to exercise Plant Breeders' Rights. Local land varieties of the major cereal and legume crops whose breeders are unknown and, which are not eligible for PVP, are still grown.³⁰ Several international organizations deal with plant variety protection and grant Plant Breeders' Rights. These organizations include the International Union for the Protection of New Varieties of Plants (UPOV), which is an independent intergovernmental organization working in close collaboration with the World Intellectual Property

²⁸ Turner, M. and Muminjanov, H. 2020. *A strategy for coordinated development of the seed sector in countries of the Economic Cooperation Organization region*. Rome, FAO.

²⁹ In Cyprus, Egypt, Ethiopia, Lebanon, Morocco, Oman, Syria and Tunisia registration of varieties for commercial release is carried out through an independent body, for the evaluation of varieties according to the requirements established by the UPOV Convention, i.e., Distinctness, Uniformity and Stability (DUS).

³⁰ At a Plant Variety Protection workshop held in Cairo in 1999, it was indicated that many countries of the region are initiating procedures to develop legislation for the protection of Breeders' Rights.

Organization (WIPO), and the International Association of Plant Breeders for the Protection of Plant Varieties (ASSINSEL).

As the Agreement does not define what would be considered a sui generis effective system, it will be for the TRIPS Council to judge. Developing member countries are given longer periods than other countries to develop their IPR legislation in compliance with the TRIPS Agreement (Article 65-4).³¹ For plant breeding, intellectual property provisions are relevant not only to the product of plant breeding activity but also to the material that is involved in the development of varieties. For this reason, plant genetic resources are at the heart of the debate on consequences of the application of IPR principles. While seed companies in the private sector are pressing for early and wide spread application of IPR, gene rich developing countries perceive this as a threat from the technologically advanced private sector. It is feared that the wealth of the poor women and men who have conserved, preserved and enhanced biodiversity for centuries will be unethically appropriated.³²

The TRIPS Agreement also defines in detail national civil and criminal procedures by which the rights of breeders are to be enforced. For example, it states that procedures must be fair and equitable, not unnecessarily complicated or costly, and should avoid time limits or unwarranted delays. The TRIPS agreement does not intend to restrict trade, but to encourage it in balance with the promotion of technological innovations. Due to the benefits derived from protected varieties, it is believed that protected varieties are likely to be well maintained and continue to produce quality seed that is representative of the original variety. As a result, farmers will have confidence in the genetic properties of the varieties, which could

³¹ Article 7 of the TRIPS Agreement, entitled Objectives, states: “the protection and enforcement of intellectual property rights should contribute to the technological innovation and to the transfer and dissemination of technology, to the mutual advantage of producers and users of technological knowledge and in a manner conducive to social and economic welfare and to a balance of rights and obligations.

³² Available at : https://www.researchgate.net/publication/350325482_Plant_genetic_resources_for_food_and_agriculture_for_sustainable_development/

have a positive effect on the national, regional, and global seed trade. However, protected material is expected to cost more because of the royalties that have to be paid to the breeder. Seed companies that incurred large expenses on developing varieties sought returns on their investments through legal means of regulating seed multiplication and sale. Ownership of plant varieties was protected by their developers and sale of seeds exclusively by the organization that developed the variety, or its licensee. Both ownership and sale were made a means of generating profit. Since legal ownership, and the protection it offered, as necessary to secure profits, different forms of protection to new crop varieties through systems of Plant Breeders' Rights (PBR) came into being³³.

8. Seeds Protection in J&K

JK Agri Genetic Limited (JKAGL) is a leader in the research and development, production, processing and marketing of Bajra (Pearl Millet), Cotton, Jowar (Sorghum), Rice (Paddy), Mustard, Maize (Corn), Wheat and other vegetable crops. The facility is managed by highly qualified, experienced, motivated and committed team of over eighty scientists working on a standard mandate in the company's strategically situated multiple breeding research centres and trial location centres that cover all the agro-climatic zones of India. The company has also been collaborating with several national and international institutes to develop distinguishable hybrids for customers. The company has well established in-house crop breeding and biotechnology R&D units recognised by the Department of Scientific and Industrial Research (DSIR), state-of-the-art biotechnology centre for Genomics and other new generation breeding tools. The world class infrastructure supports 3 main research stations, 4 sub-stations, 6 dynamic research stations, several multi location trial centres covering all agro-climatic zones in India. The use of BT cotton drastically reduced the amounts of chemical pesticides used on cotton. Our "X-Gene" BT cotton technology is now commercially approved in Sudan, Ethiopia and Swaziland. It

³³ Amruta Desai and B.M. Aher, Seed Legislation in India, www.ijcrt.org © 2017 IJCRT, Volume 5, Issue 4, December 2017 | ISSN: 2320-2882.

adheres to international quality control and quality assurance protocols to ensure best quality seeds to the farming community.³⁴ It is estimated that the direct contribution of quality seed of a variety alone is about 15-20% to the total production. 1st important and feasible approach to enhance the productivity of any crop would be to produce quality seed and making it available to farmers at proper time. Several high yielding varieties with improved technologies have been developed by SKUAST-Kashmir from last three decades. There is urgent need to popularize these high yielding varieties amongst farmers so as to increase the productivity and production of various crops, keeping in view the alarming pace in the increase of population.³⁵

9. Conclusion

Seed is the basic and most critical input and acts as a delivery system through which all scientific advancements get transferred to crop production scenario as the efficiency of all agricultural inputs depends on quality seeds. India has slowly but steadily improved the production, distribution and propagation of seeds to boost its agriculture and horticulture sector. It has ratified not only the TRIPS Agreement related to agriculture but also adopted the OECD guidelines to improvise the quality of seeds of agricultural products. J&K has undertaken various steps to improvise the quality of seeds and plant varieties through active state intervention and research and development institutions established at various places besides the Agricultural Universities of Science and Technologies.

³⁴ J K Seeds Ltd. Available at: <https://www.jkagri.com/>.

³⁵ Ilyas M.B. Ali G.Z.B., Seed Manual. Special reference to description of varieties released by SKUAST National Seed project (AICRP), S.K. University of Agricultural Sciences and Technology of Kashmir.

Book Appraisal

PRINCIPAL FOUNDATIONS FOR GLOBAL PEACE

[*A Way Forward for Better Future*] (2022)

**Edited by Prof. M. Afzal Wani, Institute of
Objective Studies, New Delhi. Pp. iv +313**

Price Rs. 595/-

The emergence of the United Nations through the United Nations Charter to establish peace and human dignity was a unique landmark in the history of the world. In 1945, after two World Wars, the people of the world resolved through the United Nations Charter to save succeeding generations from the scourge of war, which had brought untold sorrow to mankind, reaffirming faith in fundamental human rights and in the dignity and worth of human beings. They resolved to establish conditions to promote social progress and better standards of life with greater freedom. In its Preamble the UN Charter provides: The peoples of the United Nations are determined- (a) To save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind; (b) To reaffirm faith in fundamental human rights, in the dignity and worth of human beings, in the equal rights of men and women and of nations large and small; (c) To establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, and (d) To promote social progress and better standards of life with greater freedom. To attain these goals, it was agreed that: (a) tolerance would be practised for nations to live in peace with one another as good neighbours; (b) our strength would be united to maintain international peace and security; (c) it would be ensured, by the acceptance of principles and institutional methods, that armed force should not be used, save in common interests, and (d) international machinery would be employed for promotion of the economic and social advancement of all nations. The UN resolved to combine its efforts to accomplish these aims.

The International Court of Justice (ICJ) is the principal judicial organ

of the United Nations (UN). It was established in June 1945 by the Charter of the United Nations and began work in April 1946. The seat of the Court is at the Peace Palace in The Hague (Netherlands). Of the six principal organs of the United Nations, it is the only one not located in New York (United States of America). That Court's role is to settle, in accordance with international law, legal disputes submitted to it by States and to give advisory opinion on legal questions referred to it by authorised United Nations organs and specialised agencies.

The Court is composed of 15 judges, who are elected for terms of office of nine years by the United Nations General Assembly and the Security Council. It is assisted by a Registry, its administrative organ. Its official languages are English and French.

In 1948, the Universal Declaration of Human Rights was adopted to accept that all human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood. Further, it pronounced that everyone is entitled to all the rights and freedoms set forth in the Universal Declaration of Human Rights, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

The International Covenant on Civil and Political Rights was adopted and opened for signature, ratification and accession by General Assembly Resolution 2200A (XXI) of 16 December, 1966. Under this, the States considered that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world. It was recognised that these rights derive from the inherent dignity of the individual person, in accordance with the Universal Declaration of Human Rights; that the ideal of free human beings enjoying civil and political freedom and freedom from fear and want can only be achieved, if conditions are created whereby everyone may enjoy his/her civil and political rights, as well as

his/her economic, social and cultural rights. The UN Resolution took note of the obligations of the States under the Charter to promote universal respect for, and observance of, human rights and freedoms. It also realised that the individual has duties to other individuals and to the community, to which he/she belongs, has a responsibility to strive for the promotion and observance of the rights recognised in the present Covenant.

The International Covenant on Economic, Social and Cultural Rights was adopted and opened for signature, ratification and accession by General Assembly Resolution 2200A (XXI) of 16 December, 1966. The International Covenant on Economic, Social and Cultural Rights (ICESCR) is one of the core United Nations (UN) human rights treaties. This covers important areas of public policy, such as the right to: work, fair and just conditions of work etc.

The UN Declaration and Programme of Action was adopted by the UN General Assembly on September 13, 1999. It is the fundamental document of the culture of peace, and one of the great documents ever produced by the United Nations, on a par with the Universal Declaration of Human Rights, as it spells out in concrete terms how the United Nations can achieve its original purpose, which is to abolish war.

There are a good number of other international instruments on related issues, yet peace is the most prominent casualty. Hence, the Institute of Objective Studies, New Delhi, organised a Two-Day Online International Conference on “*IDENTIFICATION OF PRINCIPAL FOUNDATIONS FOR GLOBAL PEACE*” on 23rd and 24th January, 2021.

The conference addressed the following themes:

1. Visions and Experiences in Endeavouring to Attain a Peaceful Global Order before and during Two World Wars.
2. Redefining Responsibilities of Nation States and the Global Community for Contributing to Promotion of Peace.

3. Principal Universal Foundations for Peace and their Adoption through United Nations Resolutions, Treaties, Declarations and Conventions.
4. Promotion of Peaceful Societies for Better Global Understanding and Universal Brotherhood through United Nations Institutions.
5. Effective International Dispute Regulation Mechanism.
6. Enforceability of Resolutions about Peace and Cooperation.

Contributions were made to the present conference by many well-known academicians, professionals, diplomats, social activists, business executives, environmentalists, health workers, artists, literary figures and media persons. A report about the deliberations is given in this book. However, some of the contributors to the conference acceded to the request of the organisers and made available their speeches/presentations for publication in the form of a book. The book has been published now.

Contributors include: Prof. M. Afzal Wani (Editor), Professor of Law and Former Member, Law Commission of India and Ex-Dean, University School of Law and Legal Studies, GGS Indraprastha University, Dwarka, Delhi; Prof. Dr. Bruce W. Dayton, *Professor and Chair of the Master of Arts in Peace and Justice Leadership, Master of Diplomacy and International Relations, and Executive Director of the CONTACT Peace-building Program at the School for International Training, Brattleboro, Vermont, USA*; Dr. Ana Penteado, *Adjunct Associate Professor, University of Notre Dame, Sydney, Australia*; Prof. Dr. Zaleha Kamaruddin, *Former Rector, IIU, Malaysia*; Prof. Sanjay Singh, *Director, Sunder Deep College of Law, Ghaziabad, U.P., India*; Dr. Asad Malik, *Assoc. Professor, Faculty of Law, Jamia Millia Islamia, New Delhi*; Prof. Rajpurohit, *Dean and Director, Faculty of Law, University of Rajasthan, Jaipur*; Dr. Abhishekh K. Tiwari, *Assistant Professor, Faculty of Law, University of Rajasthan, Jaipur*; Prof. Anuj Kumar Vaksha, *University School of Law and Legal Studies, GGS IP University, Delhi*; Ms. Batool Zahoor Qazi, *Lecturer, Faculty of Shariah and Law, Maldives National*

University, Maldives; Dr. Iqbal Ahmad, National Law University, Dwarka, Delhi; Dr. Zubair Ahmad Khan, University School of Law and Legal Studies, GGS IP University, Delhi; Ms. Rubina Sultana, Research Scholar, Deptt. of Philosophy, Jadavpur University, Kolkata; Prof. Noor Ahmad Baba, Professor of Political Science and former Dean of Social Sciences, Kashmir University and Central University of Kashmir; Prof. M. Towhidul Islam, University of Dhaka, Bangladesh; Dr. Swati Bajaj, Assistant Professor, Amity Law School, Greater Noida, U.P., India

Hope this humble effort will be appreciated and feedback may be given by readers for enabling improvements in the next edition of the book.

M. Afzal Wani
Editor

REPORTS ON CONFERENCES/ SEMINARS ETC.

IOS Lecture on “Democracy is not merely Rule of Law but Mutual Respect among Communities and Individuals” (January 21, 2023)

A lecture on “Democracy is not merely rule of law but mutual respect among communities and individuals” was organised by the Institute of Objective Studies on January 21, 2023.

Presided over by Prof. Arshi Khan from the department of political science, Aligarh Muslim University, the lecture began with the recitation of a verse from the Qur'an by Hafiz Athar Husain Nadwi.

Delivering the lecture, author and human rights activist, Mr. Vidya Bhushan Rawat said that today rule of law had many connotations due to its application. For instance, U.S. attack on Iraq and Afghanistan was termed as the rule of law. Similarly, about 4500 families were uprooted in Haldwani town of Uttarakhand in order to vacate the land owned by the railways. This action was also defended in the name of the rule of law. Thus, there was a big gap between rule and the practice. The rule of law was best practiced in Britain where the prime minister was chargesheeted for not following traffic rules. He commented that whatever the Baba of Nagpur was screaming loudly was also a rule of law. He stated that the West termed the Russian attack on Ukraine as anti-rule of law as it should have some international standard. It defined the existing practice of the rule of law. He opined that the rule of law had certain positive aspects too. Off late, the concept of democracy had undergone change with majoritarianism occupying the centre-stage. This was due to the domination of minorities over the political discourse in the last 75 years. This led to every community demanding share in the power structure. But, Muslims and adivasis did not become so vociferous, he noted.

He underlined the importance of autonomous institutions in a democracy. Referring to merit, he said that it had always been

subjective. Merit always dominated to control the system. He complained that universities and colleges were not organising lectures and seminars on such subjects with the result that debates and discussions were not held. When people demanded their share in power structure, then they would be branded as 'Netas'. He observed that the narrative was built according to the governance. Rules must be based on structural standards as was done in the case of United Nations and its specialised agencies. He argued that it was the duty of the State to calm down people when they were agitated. Crisis might brew of socio-economic equality was not ensured. Referring to the latest law, he said that now, one would be guilty if did not prove that he was not guilty. These days, the state said 'no' to the order passed by a court to release a convict because he was a 'threat' to peace. He insisted that rules were framed taking into account human rights, cultural diversity and cultural togetherness. India was its best example where the constitution framing was a big achievement. As against this, Pakistan took ten years to frame its Constitution. Pakistan too tried to make itself a homogeneous country, but failed, he said.

Mr. Rawat held that Indians were fortunate to have inherited a rich legacy and cultural diversity which was reflected in the Constitution. In this connection, he mentioned the composition of the Azad Hind Fauj led by Netaji Subhash Chandra Bose which was composed of all the communities. As the president of the Congress session in 1938, Netaji spoke of cultural affinity in the country. Indians should celebrate shared legacy and the legacy of the freedom movement. Sometimes, people did not understand their legacy. But the fact was that today, all the things were linked to each other. He asked for celebrating people, literature, history, culture, philosophy etc. He firmly believed that the legacy of freedom movement was very rich and could not be done away with. He said that legacies of kings should not be celebrated. Instead, legacies of the popular movements, festivals, respect to each other, Gandhi, Nehru, Maulana Azad, Hasrat Mohani, Netaji Subhash Chandra Bose and joint syncretic culture should be celebrated. At a time when prejudices were being sought to be played up by certain forces, efforts should be made to discourage them. Laws were being twisted to suit a certain ideology. He urged the people to strengthen the Constitution. He

spoke against the governments' stand of the collegium system to appoint judges of the Supreme Court.

In his presidential remarks, Prof. Arshi Khan, summed up the Mr. Rawat's lecture and observed that judiciary had the power of judicial review of the Constitution and the laws by the government. It examined if a law passed by the government was ultra-vires of the Constitution., it could then strike down such a law. In this respect, the U.S. judiciary was more powerful than the Indian Supreme Court. But, the judiciary in the United Kingdom was less powerful than the Indian apex court. Holding that the Constitution was supreme in the Indian system of governance, he said that it was a book to guide all the three organs of the government. Besides, it was the guardian of the rights of the citizens. The Constitution also laid down the principle of the separation of power that put under check the encroachment of one organ on powers of the other. Judiciary was the ultimate protection of individual rights whenever they were under the threat, he concluded.

IOS Condolence on the demise of Prof. Nafees Ahmad Siddiqui (January 25, 2023)

The Institute of Objective Studies organized a condolence meeting on the sad demise of Prof. Nafees Ahmad Siddiqui (1935–2023), a renowned geographer, former Principal and Secretary Indian Association of Muslim Social Scientists, on January 25, 2023, at the Auditorium of the IOS Headquarters. After a brief ailment, Professor Siddiqui breathed his last on January 19, 2023.

The dignitaries who attended the condolence meeting at IOS Headquarters included notable academicians, late Prof. Siddiqui's peers, former colleagues, and associates. Some of his students, whom he had mentored in his long academic and administration career, lauded his memorable roles.

He was a doyen of geography, an institution-builder and one of the select few professors of Delhi University whose irrefutable contributions to academics by reshaping Shaheed Bhagat Singh College, where he taught and later mentored as a principal. As a visionary academician and community thinker, the late Professor Siddiqui groomed many emerging scholars of his time to mark their impeccable place.

While expressing his views, Prof. Iqbal Hassan Khan, Former Dean, Faculty of Engineering, Jamia Millia Islamia, said that he couldn't describe the loss of Professor Siddiqui in words. He was a great example as an academician at par cum administrator, performing his duties with dedication, commitment and integrity. As an eminent geographer, his crucial role in taking Shaheed Bhagat Singh College, at the zenith of success can't be forgotten.

His former colleague, Prof. Noor Mohammad, a Former Professor of Geography at Delhi School of Economics, joined the condolence session online from Gorakhpur to express his views. In his attributes for the late Prof. Siddiqui, he spoke about the latter's generosity, efficiency and academic skills as an administrator and an eminent teacher. He further mentioned that none other than the late Prof.

Siddiqui could offer his share of such a skillful contribution during his associations with the University Grants Commission (UGC), National Open Schooling (NOS), Central Board of Secondary Education (CBSE) and many other institutions of repute. His visionary roles were not only noticed but also brought remarkable transformations. After his death, India and the world lost a renowned geographer, he further said.

Prof. M. Afzal Wani, Vice-Chairman of IOS, highlighted IOS' innumerable contributions to increasing knowledge in various ways over many decades. He further emphasized that such an objective knowledge proliferation couldn't be possible without the late Prof. Siddiqui's selfless and enduring support, motivation and contributions. He was a treasure of knowledge. His roles in giving wings to much social objectiveness through literary and intellectual promulgation will always be remembered. The true tribute to him would be starting a lecture series on him for his contributions.

Dr. M. Manzoor Alam, Chairman, IOS, further advocated for such initiatives and insisted that the late Prof. Siddiqui's family members come to hail and support such initiatives.

In an emotional tone, Prof. M. H. Qureshi, Former Professor of Geography at Jawaharlal Nehru University, expressed his feelings in the condolence meeting that the late Professor Siddiqui would always remain enlivened due to his educational contributions.

According to Mr. Manzoor Ahmad, Former Vice-Chancellor of Agra University, personalities like the late Prof. Siddiqui are rare. He was such a large-hearted person who would accept both his critics and admirers with equal zeal. His loss is a loss to humanity and global education.

In an emotional speech, Prof. Surinder Singh, Former Professor at Shivaji College, Delhi University, spoke about the patronage he received from the late Prof. Siddiqui from 1976 upon his enrollment in PhD under the latter's guidance. Ever since their association became a family relationship, he would always be treated like an elder

son. He further said that the late Prof. Siddiqui had excellent command over THE English language and exceptional administrative skills that paved the way for his college to gain numerous milestones.

Mr. Iqbal Hussain, Former Programme Officer, IOS, shed light on the remarkable contributions of Prof. Siddiqui to IOS and IAMSS from 1992 to 1994, during which the Hyderabad and Patna conventions of IAMSS were milestones in the history of Muslim intellectual platforms to initiate a dialogue and objective assessment of issues concerning them in particular and Indian society in general. The role of the late Prof. Siddiqui in ensuring a robust plan to turn those conventions successful must be considered. As an academic administrator, he proved his mettle during that association, besides various other impeccable roles he played for several decades.

Shedding light on the exemplary roles of the late Prof. Siddiqui in bringing a resurgence in madaris, Dr. Muzaffar Hassan Ghazali from Delhi highlighted how the four compact and concise books on geography published in Urdu for madrasa students under the latter's supervision and published by IOS proved a renaissance. Late Prof. Siddiqui will be remembered for his academic excellence, besides numerous other remarkable contributions to the field of geography.

The elder son of the late Prof. Siddiqui, Mr Nadeem Siddiqui, spoke about how he wouldn't condole his father's loss and, instead, would celebrate his life because his father groomed them, besides hundreds of thousands of students whom he taught to believe that the “life of giving is the life of living.”

Prof. Z. M. Khan, Secretary General, IOS, presided over the meeting. He emphasized that it was the right time for the intelligentsia to propagate the works of the late Prof. Siddiqui, which would be a real tribute to him and other scholars of repute. As the Secretary of the Indian Association of Muslim Social Scientists, New Delhi, the late Prof. Siddiqui played notable roles besides his other academic engagements.

Prof. Haseena Hashia, Asstt. Secretary General, IOS, conducted the meeting and highlighted multiple shades of the life and works of the late Prof. Siddiqui.

The meeting was concluded with dua, made by Maulana Adnan Nadwi, for Prof. Siddiqui's maghfirah.

**IOS Lecture on “Salient Features of Constitutional Values
and Principles”
(February 4, 2023)**

The Institute of Objective Studies, under its lecture series programme on “Constitution, Democracy and Rule of Law in India” organised its 4th lecture on the topic “Salient Features of Constitutional Values and Principles” by Dr. Kushal Pal, Associate Professor & Head, Department of Political Science, Dyal Singh College, Karnal, Haryana on February 4, 2023 at Institute’s Auditorium.

Dr. Kushal Pal, defining democratic principles in a language easily understandable by all and sundry, emphasised that in democracy diverse ethnic identities play vital roles. Democracy and Constitution should be understood and defined contextually as constitutional values are integral for every Indian citizen, he said.

“Indian Constitution has never been a rulebook, but it is more than what is perceived. It, instead, manifests transformation through constant evolution for the betterment of contemporary societies.”, he said. Dr. Pal emphasized, “how socialist and secularism terms have been effectively used and evaluated in today’s democracy.”

Pointing out a caveat, Dr. Pal pointed out that a wrong perception of democracy exists in the Indian societies according to which democracy is an election exercise. In fact, democracy is a passage that empowers people for their overall participation in the growth path for which people must inculcate the habit of discussion, dissent, debate and decision-making. Participation was more important than voting—democracy needed to be understood in a broader context, he emphasised.

Another essential factor Dr. Pal spoke about was to make Indian democracy and Constitution even more vibrant. “Respect for minorities” for the success of democracy, public opinion, freedom of the press, freedom of judiciary and the separation of power is amongst the most crucial prerequisite for strengthening democratic

values. He further said that India witnessed a multi-party system due to its exemplary growth of democratic ideals.

To bring awareness about the social system, Dr. Pal held that socialism was directly connected to the policies and programmes of respective governments. He gave an example of how Russian socialism proved a milestone as an alternative governance model and became a pathfinder for global empowerment wherever it followed. Several other developing countries followed Russia in due course of time with their specific restructuring and attained success.

Ironically, in the current Indian context, socialism was unfortunately limited to the Preamble only. The cause of global concern was that the world's 1 percent population owned 40 percent of wealth. Such an imbalance devalued the meaning of socialism in the present era, he added.

Dr. Pal further stressed that in Indian context, the Constitution was a holy book for all—irrespective of everybody's faiths and religious persuasions. It was because the philosophy and essentials of all religions were the same and oriented to human sustenance. The beauty of democracy was that secularism connected with federalism brought diversity and thus empowered the country rather than weakening it. In the familiar context, common masses loved and admired each other. Although certain political factors always tried to bring friction among them to destabilize the ascent of secularism, he observed.

The architect of the Indian Constitution, Dr. B.R. Ambedkar, had foreseen India's amalgamation while drafting it. He ensured elaborate arrangements for the Constitution to sustain and strengthen over the period with scope for ensuring diversity having room for sustainable growth and empowerment, he noted.

Dr. Kushal Pal expressed the hope that India was autonomous with its internal and external policies due to its beautiful and accommodative Constitution. It sustained enduring values incorporated over time. Social justice was alive in India due to the

masses and not due to political parties. Therefore, the role of conscious people became vital to ensure the overall growth of Indian societies.

In the closing remarks, Dr. Pal enlightened the audience that there is hardly any need for a population control programme. There was no relation between population growth and religion. Anybody who was well-educated and ensured of quality education would voluntarily contribute to the nation's development. The governments must provide adequate educational facilities and healthcare for the masses to empower them for sustainability.

He concluded by shedding light on how print and social media in present India, played a constructive role in voicing the concerns of the masses, unlike electronic media with fast losing impact due to its portrayal of events in wrong ways.

Prof. Shuja Shakir, Professor & Head, Department of Political Science, Dr. B. A. Marathwada University, Aurangabad, Maharashtra, in his presidential address proposed a new resolution for social and constitutional empowerment of India. He endorsed the views expressed by the speaker that basic structure of India's Constitution could not be altered as Justice, Socialism, Liberty are in its DNA, which hardly changed. He reminded everybody of how the British had created gap between the minority and majority communities for political gains in India.

The leaders today must advocate liberal pluralism. Ironically, there was a hue for corporate and capitalistic pluralism, which the British brought to damage Indian societies. He thanked the Institute of Objective Studies for organising this programme and congratulated Dr. Kushal Pal for delivering such an excellent lecture, which was followed by a lively Question-Answer session. He further emphasized that the worst phase was not permanent. If India encountered a politically biased trend today, it would no longer continue tomorrow as positive changes were bound to come.

Prof. Haseena Hashia, Asstt. Secretary General, IOS, welcomed guests with the introduction of Dr. Kushal Pal and Prof. Shuja Shakir. She thanked the audience present both offline and online, for their presence in the programme. She proposed a vote of thanks with the remark that such lectures were the need of the hour to empower Indian societies for advocating pluralism, socialism and secularism.

**IOS organises two-day National Conference on “Indian Muslims and Plural Society”
(February 15-16, 2023)**

Institute of Objective Studies, New Delhi, organised a two-day National Conference on “Indian Muslims and Plural Society” in hybrid mode from February 15 - 16, 2023. The conference was held in multiple sessions and concluded with adoption of six resolutions in its concluding session.

Inaugural Session

The inaugural session of the conference commenced with the recitation of verses from the Holy Qur'an by Maulana Athar Hussain Nadwi from IOS Urdu Section, along with its Urdu translation.

Professor Haseena Hashia, Assistant Secretary General, IOS, while welcoming the guests and participants, introduced the IOS, which was established in 1986. “It has been successfully progressing since its establishment. It ceaselessly fulfils the primary motive to promote research, publishing books and much more, including awarding scholarships to deserving students and urging social welfare programmes as focal areas for objective and consistent growth of Indian societies—predominantly Muslim minorities by promoting intellectual discourse and dialogue” she said.

She talked about India's multicultural identity and how Indian societies are cordial as propagators of coexistence as people live in its diversity of plural society where different faiths coexist together. As Indian Muslims, with their identities as the most significant minority in the country, they represent unity in diversity, she said.

The IOS has taken several notable initiatives to ascertain minority upliftment besides its active involvement in many collaborative efforts that paved the way for marginalized Indian societies to attain significant positions, she said. She further said that the IOS' 5 chapters and 23 academic committees are significantly contributing for the advancement of the objectives of the Institute. The Institute

has brought more than 400 publications by now. It also publishes two bilingual journals intending to promote research practices, she concluded.

Professor M.H Qureshi, eminent Geographer of India and retired Professor of Geography, CSRD, New Delhi, in his inaugural address spoke about the diversity in India. He talked about India witnessing constant and numerous migrations over the last centuries. The human race worldwide, including the Indian subcontinent, saw land diversity for centuries. It is diverse and brought and strengthened the socio-cultural variety of regions. We have Nordics, Mediterranean, and Mongols—people from Central Asia, Persia and even Arabs who arrived in India through its southern-western coastal region. Therefore, India has immense diversity, he said.

He further said that the traders and invaders brought diversity to India while coming from different parts of the world. People moved, thus multi-cultures and even products in use moved, he noted. He said that the Arabs came to the Kerala coast and brought many traditions that became part and parcel of India. Allah created and gave us ample creative elements to develop and manipulate things, he stressed.

Prof. Qureshi quoted Allama Iqbal's Persian poetry to explain how God created us and guided us to design something for our growth through human contribution. Ironically, we use them for self-destruction in the race for supremacy. The creator empowered us to remain pluralistic. Our adjustments are different as humans are manipulative and yet distinct. Societies are vertically varied and diverse. Resources and technologies play a crucial role in it. We have differentiations, pluralities and diversities, and multiple faiths that coexist due to our plurality. Oneness within the variegated beliefs does matter in Indian societies. Likewise, Vedas describe truth as one. Symbolic differentiation is relatively specific identities. Sufism sometimes rejects symbols. Guru Nanak emphasized preparing a sacred thread. There is no difference between Sufism and Sikhism. People are similar thinkers, although different, making them pluralistic, he concluded.

Professor Mehrajuddin Mir, former Vice-Chancellor of the Central University of Kashmir, while delivering his keynote address said that the IOS aptly identified a significant theme for the conference as it was the need of the hour. The concept of pluralism was how to live together, tolerate others' thoughts and ideas, and even understand opponents' miseries for solutions to live in diversity, he said. All religions worldwide have various sects, and thus, their practices differ. The conflicts are, therefore, intra-religious, interreligious and social, yet we remain plural, he noted.

He said that the roots of pluralism were solid in ancient India and the rest periods. The British couldn't damage Indian culture but induced Western culture into it. After India's independence, our visionary leaders tried to sustain Indian culture. But partition brought a deterrence to damage Indian societies further. He further said that India is still home to many significant world religions, making it a plural society. It revives the concept of tolerance and sustenance.

Professor Mir quoted current Indian Defence Minister, Rajnath Singh, who recently spoke about how one Imam and one Pandit shaped his career to understand brotherhood and oneness. He also mentioned the caveat that our pluralistic societies are damaging due to nuclear families. Even five people in a family can't live in one home today. It was a matter of great concern, he wondered.

The International Human Rights Commission giving emphasis on higher education also conveys that we must learn to live together. In the 20th century, we witnessed many conflicts based on religion, caste, creed, and border disputes. It has instead been the most criminal century ever, he observed.

Professor Akhtarul Wasey, former President, Maulana Azad University, Jodhpur, Rajasthan, in his Presidential Address, said that Muslims came to India as traders and invaders. But once they came here, they delved into the culture and traditions of India and became one who enriched the nation to encourage pluralism here. Muslims have always contributed to India's prosperity. They gave Qutub heights to the beauty of the Taj Mahal and much more besides their

notable roles in the independence struggle from British colonial rule, he said.

He said that how Dr. APJ Abdul Kalam became a global personality of Indian origin—a Muslim. The country couldn't think of its missile programme without his theoretical contributions, he said. Another example is Ayurveda, given a new identity in India by Himalayas, which a Muslim runs. The list is endless. All fields, including music, art, paintings and films, etc., witnessed notable roles of Muslims in India.

He said that Allah sent prophets for communication and not for conversion. He further said that humans are well adept, and if God willing, they can gain the right path. India is a pluralistic yet exciting nation. Take, for example, an Indian Muslim from Kashmir and his counterpart in Kerala. Different yet, they are Muslims, like Muslims from Bengal, Tamil Nadu, or Gujarat, who remain culturally diverse, although they are Muslims. India is also pluralistic in terms of variegated languages. The country has accepted linguistic diversity to its core, he noted.

He said that India's different religious traditions bring us to a close rather than distancing, although some people try to destabilise that plurality. Muslims will forever remain vibrant every time because if we faced many of the troubles in the past, from Karbala to numerous other hardships, no new problem could bother us. After all, we always have Allah's mercy, he said. India is a pluralistic nation but not a racist one. Muslims have always tried for India to grow and prosper, and they will do the same in the future, he concluded.

Professor Haseena Hashia proposed the vote of thanks before the formal commencement of the first Technical Session.

Technical Session I

The 1st Technical Session began with the theme, "Genesis of Pluralism in India." Professor Arshi Khan, Department of Political Science, AMU, Aligarh, as Moderator & Chairperson, invited the speakers to express their views in the session.

Dr. Ram Puniyani, Human Rights Activist and Writer, said, “there is a misconception in the country, especially against Muslims.” The alliance of civilizations defines plurality. Religions don't have any nationality. They are universal. Some bigots wrongly present Islam in India; otherwise, it is peaceful. The Kings in India, whether Muslim or Hindu Kings, ruled the nation for centuries with people of different faiths as their core governance teams. There was nothing like Muslim Kings or Hindu kings then, he explained.

He observed that calling Indian cultures as Hindu culture is an entirely wrong and bigoted idea. Leaders like Jawaharlal Nehru, Mahatma Gandhi and Maulana Abul Kalam Azad brought secular spirits into the country. We have Sufi and Bhakti traditions that describe the morality of religions and humanity in India. The writings of Mahatma Gandhi shed more light on our secular culture. Hindu subjects having Muslim rulers and vice versa mattered the most for peaceful coexistence in the past, he said.

When Kofi Anan was Secretary General of the United Nations, a UN report advocated for the alliance of civilizations for the development of cultures. Nationalism against religion is a damaging agenda that further deteriorates different communities and their community spirit especially Muslims and Christians in India, he emphasised.

Professor Mohammad Sohrab, MMA Jauhar Academy of International Studies, Jamia Millia Islamia, New Delhi, who was the second speaker in the session, described Pluralism as a definition both from a conceptual and theoretical perspective. Primarily a religious and moral philosophy, Pluralism was the acceptance of diversity. It is more than tolerance of differences, he said. The conception of ‘We’ was essential to assess Pluralism through organic social bonding. Pluralism in the Islamic context of acceptance and the country's scenario today should be understood in the context of how the nation's spirit developed in Madinah during the time of the Prophet (PBUH), he elaborated.

He said that the concept of gender justice, fraternity and how to deal with others in the context of the Islamic faith is understood globally.

Spain was the first in Europe that focused on dignity in pluralism fabric. Before Judeo-Christian, Spain was more prosperous and satisfied in the Islamic-Christian era. Such spirit had already developed in Madinah. Shaping the legal system is the beauty of Islamic civilizations. It was hardly recognized in Europe, which Islam brought there. Pluralism demands that your neighbour be considered an asset, not a liability. Diversity with Pluralism creates resilience, but diversity without Pluralism brings disaster, he concluded.

Mr. Gurtej Singh, IAS, Chandigarh, Punjab, who was the third speaker of the session, spoke that how India's constitutional and political federalism paved the way for the Constitution, giving lots of autonomy to the country. The atrocities upon Sikhs and their resistance were part of history, he said. The examples of Pluralism can be understood from the Guru Granth of Sikh religion. Conflicting societies hardly respect the constitutional beauty of India. Leaders like Jawaharlal Nehru and Maulana Azad to KM Munshi et al., shaped the nation and its pluralistic spirit.

Indian Muslims rejected Jinnah, were confined to religious partition and accepted a pluralistic social fabric, he said. His book *Sikh and Indian Civilization* further sheds light on how Sikhs were projected during partition. He informed that law and order situation in Punjab were far better than in any other place in India, but situations transformed due to one reason or the other. The world has become a global village today, and India needs the blessings of the majority of Hindus to ensure plurality maintains when all minorities coexist with peace and prosperity, he said.

Mr. Sanjay K. Rai, a Social Activist from Lucknow and the 4th speaker of the Session, mentioned that “diversity doesn't accept dictators”. He highlighted the importance of multicultural societies. He said that Linguistic Pluralism was the need of the hour in today's context. He said that societies with pluralism also impact by technological growth. Communities can't be defined through one particular race or culture only. It requires collaborative development, he said. He further said that those breaking plural societies have instead destroyed their societies. He said that general public needed a

pluralistic approach to grow and prosper. He said that the UN respects global cultures and traditions, including different food habits. He felt that there can't be nation-building and growth without taking Muslims along who constitute 15-20% population in India. The One Nation, One Culture concept can only work in some countries. One can't find books on Hitler in Germany today. Mosolini's home has been destroyed in his country as people don't want him to be remembered. It symbolizes how those going against Pluralism perish from the leaflets of history, he concluded.

Mr. Gurdeep Singh, a Sikh leader from Bhatinda, Punjab, as the 5th speaker of the session, stressed that it was high time to focus on future, in view of the experiences of the past and present to grow in a plural society. Mistakes could be there in the past, but remembering those only won't solve the purpose. It will hinder progress, he said. He warned that today's rulers in India were breaking the very ascent of Indian culture and unity. Rulers must showcase justice which Guru Granth conveyed, he opined.

He said that when Kashmiri Muslims are tortured, others in the country feel their pain. They shouldn't feel like what is presumed but think of justice for humanity, irrespective of the religious faith they follow, he said. He suggested IOS to initiate an analytical study of the plights of Punjabis as well, and come to Chandigarh to support us in eradicating our dilemmas with intellectual initiatives.

Dr. Lubna Naaz from the Department of Islamic Studies, Women's College, AMU, Aligarh, who was the last speaker of the session, spoke on the topic, "An Islamic Perspective on Peaceful Coexistence." She stressed that the concept of peace in Islam should be adopted for peaceful coexistence. The role of Islam in securing social justice is that Allah didn't create diversity as a source of destruction but guided for oneness in diversity, she said.

Freedom from injustice, spiritual, intellectual and mental development and living with people of other religions for a peaceful existence is the message of Islam, she said. Nurturing love, respect and respectful living are the core messages. Respect and kindness are

the messages gained from the Islamic concept through Qur'an. Peaceful coexistence and living with various ideologies are all necessary, she concluded.

The session concluded with a question & answer followed by a formal vote of thanks proposed by Professor Haseena Hashia.

Technical Session-II

Focused on the theme, Role of Islam to Strengthen Pluralism in India, the Technical Session II started under the Chairperson, Professor M. Ishaque from the Department of Islamic Studies, Jamia Millia Islamia, New Delhi.

The key speaker of this session was Maulana Abdul Hameed Nomani, Former General Secretary, All India Muslim Majlis-e-Mushawarat, Delhi. He highlighted that two things are required to be properly understood: the Creator, and the Creator's motive. He said that Sufis always made one feel the independence to think and lead life. Islam always propagates the rights of neighbours, relatives and much more. Sufi Khwaja Moinuddin Chisti was wearing similar dresses like Indian Sadhus did to ascertain people of his time, irrespective of their religious faiths, connected with him.

He said that Swami Dayanand and Raja Ram Mohan Roy kept Hindu philosophy out of their movements but promoted social reforms in the societies applicable to all faiths for social betterment. "Faith is vital, like Allah's mercy, unlike social practices that change with time", he said. He further said that India's beauty was in its diversity of religious thoughts. In pre-Islam Arab tribes kept fighting for generations on a single issue of their forefathers, but the scenario has changed. Islam accepts variety in pluralism, from religious to traditional to social practices. Islam as a religion must not change its basic principles. It is a Sanatan religion with firm principles, he concluded.

The second speaker of the session, Professor Faheem Akhtar Nadvi, Head of the Department of Islamic Studies, MANUU, Hyderabad,

emphasized that the role of Islam in strengthening pluralism in India is vital. Pluralism is a society where people of all religions reside and respect each other, he noted. Minorities must be respected, and India is one of the best examples of that, where pluralism has stayed for centuries, he said. He emphasized that India will grow only when pluralism is projected in practice. He quoted Qur'an saying that all humans should be respected, regardless of their faith. No one has the right to degrade someone as an individual or someone's faith. He further said that Qur'an says you don't curse those who make a mockery of your religion. Don't use foul language. Islam doesn't accept unnecessary enforcement for religious adoption. He said that we must admit the fact that today people don't know each other's religion. It is time they know each other because ignorance propagates vested interests. It's time we learn about others religions too. Pluralism will be empowered in India by doing so, he opined.

Professor Hamid Naseem Rafiabadi, Head of the Department of Islamic Studies, Central University of Kashmir, spoke on the role of Islam in strengthening pluralism in India. Pluralism is a reality today, and no country can escape it, he said. He highlighted how the Prophet of Islam (PBUH) reached out to Jews and Christians and showcased the message of Pluralism before them, which resultantly described the beauty of Islam rather. Piety and pluralistic vision are for all, not to be categorized as majority, minority or men and women, he emphasised.

He stressed the need to begin dialogues and communicate to bring pluralistic ethics to our communities. Sufis like Baba Farid projected Pluralism and advocated that. Religiosity to spirituality and vice versa strengthens societies. Action and character matter rather than race or biases. It's necessary to think with an integrated rather than an isolated approach. And Allah gives this message. Islam is a pluralist religion and accommodative, he concluded.

Ab Majeed Ganaie & Iymen Nazir, Doctoral Candidate, Department of Religious Studies, Central University of Kashmir, presented their paper jointly on the "Islamic Perspectives of Pluralism with Special Reference to India". They emphasised that the role of Islam in

strengthening Pluralism in India remains vital. Their paper on Pluralism from an Islamic perspective and diversity highlighted how Pluralism is a situation when different classes and races live together and coexist. It is inclusiveness rather than an exclusiveness concept. Qur'an insists we think of our origin and coexist. We can't make distinctions between the prophets and their generations, they said.

The 5th speaker of the Session, Mr. Javid Ahmad Bhat, Manager KSG, An Institute of IAS Exam, Bhagat, Srinagar, spoke on the topic, 'Prophet Muhammad (PBUH); the ultimate Guide to Promote Pluralism and Peaceful Coexistence Among Nations'. He said that Prophet Muhammad (PBUH) was the ultimate guide to Pluralism. Islam is solely and wholly a peaceful religion, and the Prophet spreads the message of peace. He avoided the wars until that was needed. He avoided wars for the betterment of humanity, he observed.

In Makkah, the Prophet (PBUH), asked his companions to do Jihad with the Qur'an to spread the message of peace and affinity with religious freedom and humanity kept at par. He never compelled people to accept Islam but advocated spreading its message of justice and equality. The peace model of Prophet Muhammad (PBUH) is more relevant and vital in the Indian context, he said.

Mr. Mohd Azam, a Research scholar at the Department of Islamic Studies, Baba Ghulam Shah Badshah University Rajouri, spoke on the topic, "Role of Chishtiya Order in Promoting Pluralism in the Indian Subcontinent." He said that the role of Sufi orders in Pluralism in the Indian subcontinent needs to be understood in the current context. He further said that several Sufi orders propagated Islamic teachings, Pluralism and human values in the region. Sufism became popular after the 8th century, and the Sufi orders in the Indian content played a crucial role in the following centuries. It is time to revive the various Sufi practices that advocate Pluralism and coexistence, he observed.

While concluding the session, Professor M., Ishaque in his presidential remarks highlighted the idea of pluralism in modern and

recent times. He said that it became popular in the 1930s and that earlier the concept was less popular. Religious teachings guide the teachings of truth. All prophets brought the same message of the diversity of the truth, he said.

Do Islam and fundamentalism reject Pluralism?, he questioned. He said that many such points need to be discussed in the current context. For example, Raja Man Singh's sisters were married to Muslims, and his father built a mosque in Lahore. All Muslims in their service were supposed to pray. But the Raja was a Hindu. He didn't become a Muslim, though, and when asked, he would say perhaps my heart is sealed. It is an excellent example of Pluralism, he said.

The session ended with a vote of thanks proposed by Professor Haseena Hashia.

Technical Session-III

Professor Nasim Ahmad Khan, Chairman of the Department of Social Work, AMU, Aligarh, chaired the 3rd session on the theme "Contribution of Muslim in Nation Building" and stressed why every individual in the society is a part and parcel of social development, irrespective of their faith and preferences.

The first speaker of the session, Professor Mohd. Wasim Ali, Department of Law, AMU, Aligarh, spoke on "Sir Syed's Perspective on Communal Harmony." He stressed that we are passing through a difficult era when Islam as a religion is used as a means of aggression, and there are continuous attacks on it on multiple levels. He said that the current wave of aggressive nationalism is taking many lives. He emphasized that brotherhood, tolerance and humanity must exist with religious harmony. He further said that Sir Syed Ahmad Khan's teaching on communal harmony is worth reading and incorporating into daily life. There is a division in the societies rooted in society nowadays, which must be uprooted and removed, he said.

He said that Sir Syed Ahmad Khan conveyed that any society can't prosper without an integrated approach. By nature, Sir Syed Ahmad Khan was the champion of communal harmony and practised that as well. The people of India are one nation, and all communities are its strengths. India is a country with massive diversity. The idea of India is one home concept. Sir Syed Ahmad Khan said loving the country is more critical, religious, and ethical than loving the community. He was a social reformer, irrespective of all religions. It is high time we follow Sir Syed Ahmad Khan's ideals.

Dr. Salma Aziz, Department of Sociology, Abeda Inamdar Sr. College of Arts, Science & Commerce, Pune, highlighted how India is a pluralistic but divided society. The construction of nationhood amongst Muslims in India is the need of the hour. Each community faces challenges, but they need to appreciate pluralistic approaches. Each community should make the best of their customs and offer the most valuable form of their life. Pluralism, as a concept in the current scenario, matters the most. Muslim societies possess rigorous generosity and integrity for broad applicability. Minimal dogmas are an ardent need to define religion, she said.

She emphasized that Pluralism, as defined today, needs to be brought into perspective broadly. The experience of Muslims in India as the heritage of central Asian culture and civilisations and India's cultural and intellectual life is a proven truth. Muslim Indians take pride in being Indian rather than migrating to Muslim Pakistan. Indian Muslims are ill-understudied and under-studied even though they are the second largest and first minority. Language, religion and caste are some of the divisions in India, but all these divisions are advocates of Pluralism, she concluded.

Ms. Bhasha Singh, a Delhi-based Independent Journalist and Writer, highlighted the contributions of Muslims in nation-building, which remain at par. She said that India's Ganga-Jamuni tahzeeb has been essential to sustaining the nation's secular values. Muslims played significant roles in doing so. Since 2014 though, the fabric of India's secularism has been attacked the secular spirit of the country is waning. Why would minorities always be asked to prove their

nationalism? It is a fight to survive and attack them, she questioned. She greeted the Shaheen Bagh Muslim women who projected the basic concept of Indianness during CAA-NRC protest. Fatima Sheikh brought a renaissance, and that spirit was seen in Shaheen Bagh, a most significant example of democratic and constitutional upliftment after independence, as witnessed. She said that no one has the right to question another's sovereignty. Hindu fascist attacks must be countered with Intellectualism and Pluralism spirit. Muslims don't come in anger now. They don't resist, and they showcase patience. All pillars of democracy are attacked, but Pluralism always survives, she concluded.

Dr. Arif Mohammad Khan from AMU, Aligarh, spoke on the topic "Policies of Government and Pluralism in India." Acknowledging pluralism is vital for social framework, he said. The first graduate of AMU was a Hindu, so AMU has maintained its pluralistic values since its inception, he observed. He said that the current policies of the respective governments are showcasing a new way, yet more needs to be done.

Mr. Arshid Ul Islam, Research Scholar, Education, Shri Venkateshwara University, Gajraula, U.P. spoke on the "Role of Indian Muslims in Plural India: A Study of Contribution of Sir Syed Ahmad Khan in Nation-Building." He said India is the most plural of all countries in the world. Sir Syed Ahmad Khan, a thinker and social reformer remained a torchbearer enlightener for generations to come. His life and works remain relevant today in the context of Muslims in India and to increase Pluralism.

Dr. Nadeem Ashraf, Assistant Professor, Department of Sunni Theology, AMU, Aligarh, spoke on the topic, "Problems of Muslims in Plural Society." He mentioned that the Islamic teachings & prophet's life speaks volumes about Muslims and their characteristics. He said that Muslim minorities often face problems as minorities. Meeting typical social temperament has become a trend today. People need each-others' help in plural societies. They need to maintain their religious identities and keep diversity right in order. He insisted that mutual harmony was the need of the hour. Focus on social relations

with others is equally important. Islam offers complete freedom to mingle rather than narrow thoughts, he said.

Dr. Sajad Ahmad & Dr. Rafique Anjum presented the paper entitled “Contextualising Religious Coexistence in Plural India: A Study of Maulana Abul Hasan Ali Nadvi” as the last speaker of the session. They gave a detailed life sketch of the late Maulana Abul Hasan Ali Nadvi and shed light on how Muslims are the best community and contribute to nation-building through their visionary roles and nationalistic spirit. Maulana Abul Hasan Ali Nadvi’s life and works are worth following at the current time, they insisted.

The session ended with a vote of thanks proposed by Professor Haseena Hashia.

Second Day: February 16, 2023

Technical Session-IV

The 4th Technical Session of the conference began with the theme, “Socio-Economic Patterns Reflecting Pluralism in India.” Moderated and Chaired by Professor M. Ishtiyaque, former Vice-Chancellor of Magadh University, Bodhgaya, and one of the expert linguistic geographers, he highlighted India's pluralism and diversity in numerous contexts. It is the most appropriate time we talk about pluralism in India today. India is vast, and its stretch reflects diversity in many respects. Variations exist in our cultures and lifestyles as well as in linguistics, he said.

We have four major ethnic groups: Aryans, Dravidian, Tribal and Mongols, besides Negroes and other smaller ethnicities, he further said. Six major religious groups, Hindus, Muslims, Christians, Sikhs, Jains and Buddhists, and many other smaller faiths, portray the pluralistic concept of the Indian subcontinent. Most religions have their sub-sects, and all of them project total Indianness. He invited speakers to present their papers.

Professor Arvinder Ansari, Department of Sociology, Jamia Millia Islamia, New Delhi, spoke about the concern about how the social fabric of India has been disturbed in the current time while

minorities, especially Muslims, are being marginalized. She pointed out the difference between Pluralism and Multiculturalism that needs to be understood. Let's not forget that Gandhi is not complete without Khan Abdul Gaffar Khan and several other freedom fighters and leaders of repute representing different fabrics and religious beliefs but a single patriotic spirit.

She said that India was celebrating Azadi Ka Amrit Mahotsav today, but we must equally introspect about our forefathers' collective sacrifices, irrespective of their religious views. Are we not in a contrasting situation today?, she questioned while stating that tensions will always happen in societies, but how the state handles them is crucial.

She said that a new phase of communalism has been witnessed in recent decades. Riots before independence and those happening now have changed in perspective and motive. Shah Bano and Babri Masjid issues were those that changed the politics in India. Minorities are most often symbolized by Muslims, although there are several others too. Majority appeasement and fear of pseudo-secularism have impacted India's Pluralism.

The Sachar Committee was expected to bring significant development in politics and society, but that didn't happen, she observed. That action taken was undoubtedly substantial. The process of othering has to stop with immediate effect. Madarsa is one good thing in the Muslim community that must be focused on and promoted. There was no fear psychosis before 2014, but it entrapped the Muslim community in the last decade. We lack Muslim leadership as well. The 2019 general election results indicated as if minority Muslims hardly mattered. It's time to think and rethink, she stressed.

The second speaker of the Session, Professor Naved Jamal, Department of Political Science, Jamia Millia Islamia, New Delhi, mentioned that the socio-economic theory of pluralism was essential. He said that India's cultural ethos must imbue Pluralism and Secular state elements. Muslims, as the most significant minorities, lack in their socio-economic development, he observed. The core idea of

Pluralism must be incorporated at a larger scale for the country's overall prosperity with the collective growth of all communities, he suggested. He said that several values and ethos, when becoming one, have the potential to bring newer empowerment. He further said that pluralism is coexistence, so it is time India introspects and focuses on what the founding father of the Indian constitution advocated—unity in diversity.

He stressed the need to evaluate the autonomous functional stages of all religious communities in India for the oneness that India deserves today, as it did for centuries. India is a mosaic of Pluralism. It is a land of laws, but the hour's need is to implement them. Nothing will change unless we change ourselves, he said.

Professor Shuja Shakir, Head of the Department of Political Science, B.R Ambedkar Marathwada University, Aurangabad, mentioned that a more significant portion of Indians, irrespective of their faiths, are always against communalism. He said that pluralism was a vulnerable idea, and that identity politics damages the larger sections of societies and badly affects minorities.

He observed how BJP attempted Hindu votes mobilization in the name of Hindutva and attained success. Likewise, Congress made similar attempts for other communities earlier. He emphasized the need to understand pluralism and the impact of majority and minority coexistence rather than the exclusion element or the vulnerable impact of marginalization. The misinterpretation of Muslim political behaviour is already plaguing Indian societies that must be brought to the fore for discussion, he said.

Mughals never ruled India in the name of religion. The wrong notions must be defied objectively before developing any backlashing ideas. Why are Indian Muslims constantly on trial? Most political parties do lip service to Muslim issues today. There are problems among Muslims themselves that equally need to be rectified, he observed.

The next speaker of the Session, Dr. Nazia Khan, Department of Political Science, Jamia Millia Islamia, New Delhi, stressed that there should be accommodating factors for cultural autonomy in the country. Diversity of beliefs and practices must be given ample room for Indian pluralistic societies to survive, she said. She observed that minorities based on religion and linguistic minorities are in the question mark. How Muslims are marginalized, ostracised and discriminated against today through educational deprivation, lack of employment opportunities, etc.

She further said that Indian Muslims bear the stigma that they divided the country. Ingrained hostilities are to be blamed. Muslims are victimized in multiple ways. Intolerance towards Muslims is most often witnessed. After Sachar Committee, no government-sponsored report came for their overall development. Low education levels and low-quality education are the fate of Indian Muslims in the current context. What effect will the New Education Policy implemented in 2020 bring on Indian Muslims? Such questions must be properly looked into and answered.

Dr. Mohammad Ajmal, Assistant Professor, School of Language Literature and Culture Studies, JNU, Delhi, spoke on the topic, “Pluralism vis-a-vis Religious Tolerance in India: The Question of Muslims.” Religious intolerance in Indian societies is one of the important questions beforehand. Religion has a sociological component in Indian diversity. State structure, multiculturalism and the rule of law in India are interconnected, he observed.

He further said that all key questions to be addressed are the causes of inclusion and exclusion in the polity, focus on the reservation and discrimination based on religion. The repeated riots in recent decades brought Muslims to the crossroads as the victims of communal violence. Hate speeches to state support for such bigots caused such scenarios. Still, there is complete Pluralism in India that must survive for sustenance, he said.

The next speaker of the Session, Mohammad Shekaib Alam, Research Scholar, Department of Political Science, IIUM, Malaysia,

spoke on the topic, “The Concept of Pluralism: A Comparative Study between Islam, Hinduism and the Indian Constitution.” He mentioned that Pluralism is an acceptance of diversity. Islam, like many other religions, including Hinduism, respects the ethos of Pluralism, he said. The Qur’an and the Bhagavad Gita have beautifully described Pluralism ideas. Protection of individual rights, minority groups and various other rights, including multilingualism and secularism, is ingrained in the Indian constitution. Ironically, extremism and intolerance have been badly affecting Pluralism. They are the key questions that must be addressed.

Professor Haseena Hashia proposed the vote of thanks to end the session.

Technical Session-V

Co-Chaired by Professor Noor Ahmad Baba, Department of Political Science, University of Kashmir, and Mr. V. B. Rawat, technical session V started on the theme “Challenges and Remedies to Foster Pluralism in India.”

Dr. M. G. Mulla, Dean, Faculty of Commerce & Management, Abeda Inamdar Sr. College of Arts, Science & Commerce, Pune, questioned whether India needs pluralism or majoritarianism? This question needs to be replied to assess the core issues. India is indeed a land of pluralism—a political philosophy catering to various social and cultural needs of the societies concerned, irrespective of their religious faiths, he said. Majoritarianism is a perceived superiority to reclaim majorities by hook or crook at the cost of othering minorities. Ethos and concerns are that there should be equal respect for all, especially all religions, he observed.

Regular elections to elect different governments are all sources of inclusion and Pluralism. Judicial review is also a source of inclusion. The federal division of powers between central and state governments is equally crucial. The state must protect the values of Indian citizens to preserve the country's sovereignty and Pluralism, he concluded.

Prof. Nasrin Mujib, Chairperson, Department of Education, AMU, Aligarh, spoke with her own story of being the only Muslim in the whole class during her school days. That was the scenario in Muslim societies then, especially for women's education a few decades ago. Girls in Muslim communities were supposed to focus more on their household activities, she observed.

There has been awareness, and lots of changes occurred in the recent past, but still, it needs to be more satisfactory. Parents need to come forward, although they have many problems to face. It is time to focus and bring thorough reform in the education system that should directly impact and bring a revolutionary change in the education system, especially for Muslim women. Liberal democracy is ardently needed in the current context. Our own efforts are the need of the hour, she insisted.

The next speaker of the Session, Sayed Bilal Haider (Habib Bilal), Research Scholar, Department of Islamic Studies, School of Islamic Studies, Baba Ghulam Shah Badshah University, Rajouri, spoke on the topic, "Religious Integrity and Intra-Faith Dialogue Among Muslims: Challenges and Prospects." He observed that Islam's concept of pluralism is needed now as it is a beautiful aspect of diversity. A peaceful and pluralistic environment can leave an impact, especially when there is islamophobia and misconceptions are on the rise in India and globally, he said.

He observed that Islam's concept of religious integrity must be understood in that scenario of the Prophet's migration from Makkah to Madinah. Brotherhood and integrity concept in Islam came from the very early days to maintain peace and social, religious and cultural integrity. Islam's concept of intra-faith dialogue besides inter-faith is worth applying to avoid all sorts of disputes, he said.

He further said that Muslims today are divided on a large scale by casteism, sectarianism, and regionalism. Practising hatred and sectarianism is a big issue. The Muslim community must introspect today to eradicate the core issues and move ahead for constant growth. Racism is also one of the significant issues in the current

context, and it should be ended. Muslims mustn't practice racial discrimination. There should not be hatred of regionalism as well. Most Muslims don't read the Qur'an and thus don't understand Islam, he concluded.

Professor Noor Ahmad Baba, in his presidential remarks said that there should not be any discrimination in society, especially among Muslims. The Ottoman empire had been excellent. Like in India, the Mughals showcased Pluralism and nation-building. India is one of the most plural societies in the world that safeguards Pluralism. It is time for further strengthening that spirit, he further said.

Mr. Vidya Bhushan concluded by saying that every religion has diversity, and that diversity must be understood.

Technical Session-VI

Chaired by Professor (Dr.) Sudeep Kumar Jain, Department of Prakrit Language, Shri Lal Bahadur Shastri National Sanskrit University, New Delhi, the session began on the theme, "International Scenario, Institutional Responsibilities and Trends to Establish Synergy for Peaceful Coexistence among Nations." While opening the session, he said that one must appreciate his/her respective religious rituals but not forget the core of humanism when practising his/her religion. He further said that one must understand what makes religion and how it describes humane spirits. When we write books, we have to think of words and thoughts as they will have a lasting impact on the readers for generations.

He further said that religion was not a so-called culture; it is the primary feeling of love and affection. Mistakes will happen, but everything has a limit. Minorities are not of power or strength but of their thoughts. There is no religion but humanity. No religion says to damage nature and the environment. Politics has caused many differences, unlike religions that advocate peace and prosperity. Self-respect and respecting others propagate humanity. All faiths teach betterment, but none of them leads to communalism.

Dr. Amita Valmiki, Head, Department of Philosophy, R. J. College of Arts, Science and Commerce, spoke that “mysticism and mystical words for peaceful coexistence must be understood for thorough observation, assessment and implementation.” Religious practices and mysticism are, regardless of religion, an enormous undertaking. Mysticism is a constellation of distinctive practices for human lives. It is a knowledge-granting concept. Mystical aspects portray universality besides intellectual elements, she said.

She further stressed that the moral part of mysticism is equally focused. All kinds of mysticism bring social and communal harmony, and so do they augur for coexistence. Rabindranath Tagore was a great mystic saint of his era. Soul mysticism is all about self-repairment through bonding with god. Likewise, Sufism with Qur’anic instincts presents the best example of mysticism. Mysticism is indeed a pathway to peaceful living and coexistence.

Mr. V. B. Rawat, Author & Human Rights Activist, spoke about the utter reality of the society that even educated people are turning more racist and caste-conscious in India today, which is a somewhat more dangerous scene. Is playing with minority sentiments justified by intelligentsia?, he questioned.

He said that let us think of Kabir, Rahim, Tulsidas, Redas, Nanak and many eminent Sufis. They were less formally educated than we have opportunities to gain education today, but they used to promote coexistence more than we do now. Bigger than constitutional values, we need to focus on the feelings of coexistence. Muslims are not the minority but the second majority in India. It has to be understood in light of the facts. Parsis and Jains are though minorities, he said.

He further said that the global right wing is the outcome of international right-wing economic development. Cultural diversity in India remains incomplete without Hindus and Muslims coexistence. The crisis is created for the accumulation of wealth. Multicultural societies are always beneficial, he said.

Diversity always benefits. Gandhi, Nehru, and Azad focused on resolving secularism, social justice and respect for pluralism. We have a strong heritage and need to develop a robust constitutional mechanism. Today media is a partner in crime as it spreads hatred in societies. Autonomous institutions are a must for a strong democracy. Mandal Commission under VP Singh government in 1990 completely changed the Indian polity, he concluded. It followed with a lively question-answer session.

Valedictory Session

Professor Asmer Beg, Department of Political Science, AMU, Aligarh, in his speech as Guest of Honor, said that Muslims today witness political marginalization and invisibility—total invisibilization and turning worse to marginalization. Many reports and studies have documented their plights, and a lot is required to be done. Violence against minorities, especially Muslims and Christians, has been normalized recently. Media typecasting and stereotyping Muslims as perpetrators of all kinds of wrongdoings further damage their identities. Institutional apathy of Muslims keeps them at the low, he said.

He said that India is a robust democratic system, at least in the 3rd World. All countries in Europe are mono-cultural. They are linguistic states instead. India is otherwise multicultural democracy. Its democracy is flexible; thus, problems are also coming before it. Emotive politics in India is damaging the country's multicultural fabric. Religion and caste etc., play critical roles in this. It shifts people from real issues to petty issues. Emotive issues are for emotional satisfaction; thus, they can't fulfil our needs, he elaborated. Majoritarianism in communal politics is other factor, including minority appeasement. Sense of victimhood is assuaged in the majority of communities. Emotional satisfaction is urged for significant damages that people hardly notice. Rationalism is the core of secularism—but it is defined in the context of religion instead. There is a need to redefine this concept, he emphasized.

In the Valedictory Address, Professor Eqbal Hussain, Dean, Faculty of Law, Jamia Millia Islamia, New Delhi, said, “unity in diversity must be understood in its historical context.” He said, India has welcomed people from various cultures from different locations worldwide for centuries. Indian composite culture of today is a mosaic of cultures due to multiculturalism proliferation. The Indian Constitution recognizes social democracy and fraternity. Fraternity remained one of the cruxes of pluralistic societies, but ironically, it has been turning hollow nowadays.

The British rulers targeted Muslims before independence. And after that, Muslims are most often targeted to face several unforeseen problems in national life today. Some difficulties are related to their own mistakes, and some are deliberately kept in the limelight due to the past mistakes of their forefathers. It is time to resolve such issues with a determined, incredible mind and balanced way, he suggested.

We have a vibrant judiciary in India, but these days they, too, are often politically motivated. We still have a deep foundation of secularism in the country that can be reignited with trust and commitment, he concluded.

Professor M. Afzal Wani, Vice Chairman, IOS, in his presidential address said “we have had a descriptive type of narration in the two-day conference by various scholars with numerous experts. Now the need is to think another way and come up with a new dawn. More than narrating plights, we need to focus on the solutions. It is the time to value humanity and not the way of treating difficulties. Caring for each other and even caring for a single person is essential, he stressed.

He said that character building is the most crucial aspect to focus on and take action. It is the strength of faith to face the challenge and find solutions rather than lament. There is hardly any need to rise against anybody but against violence and for dignity and self-esteem.

United Nations has 17 goals for 2030, especially the broader ones like no poverty, full justice and much more. Let's make people

accountable that if someone is doing wrong, they are going against the tide and the UN goals for universal peace. It's time to follow the UN agenda from a broader perspective. The opponent of your agenda should be made accountable. Those harming the agenda of peace must be taken into account, he insisted.

He further said that serving human values is always crucial. Indian Muslims must follow the agenda of teaching philosophy, sociology, political principles and much more they have been supposed to do for the last 14 centuries. Leadership has to come. We used to guide stars, but today we don't have leadership because we are weeping in our pains and not coming out of it.

We have internal challenges as well, but we need to come up to overcome issues. We must work on gender justice and many more with firmness and determination. Indian Muslims must move ahead more methodologically. They must be protected, honoured and respected. If you prioritize faith as a Muslim, you will be better able to follow humanism. You have to have the potential to ask questions. 'That will make plurality when feeling for others' pains an attribute of true Muslims is supposed. Plurality is indeed recognizing others' dignity, he noted.

Devil is the only enemy that trains you to cheat and deprives you of being a philanthropist to your neighbour. Supporting others is the first feeling of Pluralism that Islam teaches. Don't tell people to convert to Islam but let's project a character that shows why a Muslim be given a chance to serve humanity, he said.

“Such a towering message should go to the world. Making intellectual efforts is the need of the hour. The Muslim community needs to do their accreditation for their roles” he further said.

IOS is strategically based on the Indian Constitution's ideals. This Institute will undoubtedly keep the Constitution in its spirit for social justice and human sustenance. It is time Muslims apply the Reformatory Theory of Crime in their lives. What IOS is doing with

its innumerable efforts must come to the UN's notice as it is advocating the latter's broader goals, he concluded.

In the context of the current scenario when all communities in India must advocate pluralism and peaceful coexistence, a 6-point resolution, moved by Professor Haseena Hashia, was unanimously adopted by all the participants. This resolution reads as follows:

1. India is a Plural Society possessing a common heritage, shared values, shared vision and shared destiny, and all the people should strive to maintain this character of the country.
2. India's Constitution enshrines common heritage and shared values which must be propagated to all levels of society.
3. Islamic values have prioritized legal and social acceptance of diversities which must be followed and communicated to clarify its understanding.
4. India's Muslims and their socio-cultural attributes have contributed to pluralism which must be significantly propagated to defy false claims.
5. India's plural reality and peaceful coexistence face many challenges and turbulence that must be met with more compassion and steadfastness.
6. The conference calls for more vigorous efforts to make the constructive and constitutional narrative prevail, upholding the values of nation-building, democracy, federalism, pluralism, peace and solidarity.

The conference was concluded with a vote of thanks proposed by Professor Haseena Hashia, Assistant Secretary General, IOS.

**IOS Condolence on the demise of Dr. Mohd. Kamal Hassan
(February 23, 2023)**

With immense grief and sorrow, Dr. Mohammad Manzoor Alam, Chairman, Institute of Objective Studies, New Delhi, offers his deep condolences on the sad demise of Professor Emeritus Tan Sri Dr. Mohd. Kamal bin Hassan, who passed away today morning in Malaysia due to post-surgery complications. Inna lillahi wa inna ilaihi rajewoon!

Dr. Hassan was an eminent academic and Islamic scholar, specialising in contemporary Islamic thought, particularly pertaining to the Southeast Asia region. He was the Rector of the International Islamic University, Malaysia (IIUM) from 5th April 1998 to 31st May 2006.

To mark his contributions to the country, he was chosen to be a National Academic Figure in 2017 by Government of Malaysia. He left IIUM on 30 July 2018 after 42 years of service to Malaysian education, on which IIUM awarded him the title of Professor Emeritus. Before exiting IIUM, he was a Distinguished Professor at its Centre of Islamisation.

“Dr. Kamal Hassan was deeply attached with me and stayed at my residence when he visited Delhi first time. I used to meet him and interact on various issues during my visit to Malaysia. He was a great admirer of the Institute of Objective Studies and attended a number of programs organised by the Institute”, Dr. Alam said.

Some of the important programs of the Institute he participate include: a 3-day inaugural international conference of the IOS Silver Jubilee celebrations programme on “Towards Knowledge, Development and Peace-Outlining Roadmaps for the Future” held on April 15-17, 2011, at New Delhi; two-day online international conference on “Personality and Contribution of Dr. Mohammad Natsir as a national and international thought leader in the 20th century”, organised jointly by the Institute of Objective Studies, New Delhi, Ibn Kahldun University Bogor, Indonesia, International Institute of Islamic Thought, USA, and Dewan Dawah Islamiyah,

Indonesia, on February 6-7, 2021; virtual Condolence Meet to pay homage to Late Prof. Abdul Hamid A. Abu Sulayman, Former Rector, IIU Malaysia, and Former President, IIIT, USA held on August 31, 2021 etc.

He was also a member of the advisory board of the IOS bi-annual journal *Journal of Objective Studies*.

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 to bear this loss. *Aameen*.

**IOS Pays Tribute to Former CJI AM Ahmadi
(March 11, 2023)**

A condolence meeting was held by the Institute of Objective Studies (IOS) in New Delhi on March 11, 2023 to pay homage to Justice A.M. Ahmadi, Former Chief Justice of India, who passed away on 2 March 2023.

Justice A.M. Ahmadi became the 26th Chief Justice of India on 25 October 1994 and continued to serve in that prestigious position until his retirement on 24 March 1997. As India's Chief Justice, Justice A.M. Ahmadi authored 232 judgments besides being part of 811 benches.

Prominent figures from different walks of life paid homage to the departed soul on this occasion.

Justice Manju Goel, Former Judge of Delhi High Court, paid homage to the departed soul and said it was difficult for her to express her emotions and feelings about Justice A.M. Ahmadi. She worked under him for nearly six years and remained the direct witness of enthusiasm and fresh ideas in the legal system that she would always receive from such a renowned legal expert.

Former Union Minister of External Affairs, Govt. of India, Mr Salman Khurshid, emphasised how the death of Justice A.M. Ahmadi has caused a big vacuum today. As a man of ideals and a judge of exceptional intellectual abilities, Justice A.M. Ahmadi was a persona extraordinaire. Expressing his feelings Mr Khurshid mentioned his regular meetings with Justice A.M. Ahmadi to discuss several community issues of prime concern.

Former Chairman, National Commission of Minorities, Professor (Dr.) Tahir Mahmood spoke about his deep relationship with Justice A.M. Ahmadi. In his tribute, he said that former Chief Justice of India Aziz Mushabbar Ahmadi hailed from Gujarat and belonged to the Daudi Bohra Ismaili sect of Muslims. He had begun legal practice in Mumbai in 1954 and a decade later had joined the lower judiciary in his state. In 1976 he was appointed a judge of the Gujarat High

Court and was elevated to the Supreme Court in December 1988. After nearly six years he had assumed the mantle of Chief Justice -- third Muslim Chief Justice of secular India after Mohammad Hidayatullah and Mirza Hameedullah Beg -- and held the position till 24 March, 1997.

The celebrated case of *SR Bommai v Union of India* decided by a nine-judge Bench in 1994 involved multiple issues including the secular character of the nation. Justice Ahmadi wrote a separate 37-page judgment "to indicate the areas of agreement and disagreement" with the views expressed by his brother judges on the Bench. Speaking of the "anxiety" of Dr Ambedkar, chief architect of independent India's Constitution, to ensure that the secular character of the nation "bequeathed by Mahatma Gandhi was not jeopardized", he concluded that adequate provisions had been enshrined by him in the Constitution "to keep divisive forces in check so that interests of religious, linguistic and other groups were not prejudiced."

The distinguished judge was on the Bench that decided the second Judges Appointment case in 1993 and gave birth to the collegium system for managing judicial appointments. He shared Justice SP Bharucha's viewpoint in that case, and also endorsed his dissenting decision in *Ismail Faruqui* (1994) relating to the Ayodhya Land Acquisition Act and Presidential Reference about the alleged existence of a temple beneath the demolished mosque in the holy city. Writing the judgment in the Padma Awards case (1995), Ahmadi cautioned the powers that be to preserve the dignity and reverence of the awards by limiting their number and selectively choosing the awardees.

In the Bhopal gas tragedy case (1996) Ahmadi changed the charge of culpable homicide not amounting to murder against the accused to that of death by negligence, for which he faced the wrath of some human rights activists. The case was finally decided by the apex court, after his retirement, more or less in accordance with his ruling. In 2010 when the court rejected CBI's curative petition seeking enhancement of punishments for the accused, Ahmadi's point of view was vindicated.

The Aligarh Muslim University honoured itself by electing Justice Ahmadi as its Chancellor. The Institute of Objective Studies, a centre for multidisciplinary research, conferred on Justice Ahmadi its 'Lifetime Achievement Award' in 2007. The great judge, however, deserved a much greater honour. Juristic opinions about the value and veracity of some of his judicial decisions may vary, but those who knew him as a person from close quarters invariably found him a thorough gentleman -- a dignified patriot through and through ever willing to serve the nation but never to be dragged into unsavoury controversies and face indecencies.

Professor Akhtarul Wasey, Former Vice-Chancellor of Maulana Azad University, Jodhpur, said on this occasion that it is a general phenomenon that people are born, live and die—and so are they forgotten. But some people leave an impact in life and thereafter become the leaflets of history. Justice A.M. Ahmadi was undoubtedly one of those whose towering personality will always keep him alive. He spoke of the common trend that high-class people usually ignore their communities once they reach an elevated position. As a community thinker, Justice A.M. Ahmadi was a distinguished personality and a moral support system for the community and the country. Through the IOS platform, he pays his homage to Justice A.M. Ahmadi from himself and on behalf of the entire Indian Muslim community.

Professor Z.M. Khan, Secretary General, IOS, spoke on this occasion that Justice A.M. Ahmadi was a friend, philosopher and guide to IOS and us all. He believed that if the country has challenging environments or numerous issues, the judiciary gets equally affected like the total governance system effects somehow or the other.

Professor Z.M. Khan mourned that "as a community leader and well-wisher of IOS, Justice A.M. Ahmadi was always a driving force and morale booster."

Prominent businessman, entrepreneur, Rajya Sabha MP, and politician from Katihar, Bihar, Mr Ahmad Ashfaque Karim, paid his tribute and homage to Justice A.M. Ahmadi by recalling some of his

exemplary contributions. He emphasised that Katihar Medical College & Al-Karim University would not have seen the light of the day without Justice A.M. Ahmadi's visionary judgments, whose justices paved the way for several other institutions to establish in the country. He further said that his honest judgments will be remembered forever, he concluded.

Vice President of All India Milli Council, Maulana Anisur Rahman Qasmi, said that "his judgements were extraordinary, and he would always encourage the Indian masses through his historic judgments to focus on their rights. He believed we should be together to raise our voice for human rights."

Likewise, journalist Suhail Anjum mentioned that he wrote an obituary on Justice A.M. Ahmadi, the day he died. Several newspapers carried it and people appreciated that he kept all the readers informed through a short obituary. Mr Suhail Anjum further highlighted that people often considered Justice A.M. Ahmadi a *Qadiani firqa*, but he was a Bohra Muslim. As a legal luminary, Justice A.M. Ahmadi was indeed a Qutub Minar of the community.

Mr Huzefa Ahmadi, Senior Advocate, Supreme Court of India and son of Late Justice A.M. Ahmadi, said, his father, Justice A.M. Ahmadi, had a meaningful and fulfilling life. I will remember him forever for the two facets of his life—a fine judge with amazing determination and extreme firmness.

Likewise, Ms Tasneem Ahmadi, Senior Advocate and daughter of Late Justice A.M. Ahmadi, was bereaved that her father was tall and strong and would always stand by his principles.

Professor M. Afzal Wani, Vice-Chairman, IOS, New Delhi, conducted the programme and spoke on many facets of Justice A.M. Ahmadi's life. Azeez Mubashshir Ahmadi, or Justice A.M. Ahmadi as he was recalled popularly, patronised IOS for decades for its activities and contributions. The IOS conferred Justice A.M. Ahmadi the 1st Lifetime Achievement Award.

The Justice A.M. Ahmadi Committee for Legal Education in India played a notable role in the preparation, training and nourishing of the best lawyers and judges in the country, said Professor M. Afzal Wani in his concluding remarks.

A short film on the life sketch of Justice A.M. Ahmadi was also screened on this occasion. IOS has also published a book on Justice A.M. Ahmadi named *Flow of Thoughts*.

The programme concluded with a mass prayer led by Maulana Abdullah Tarique for Justice A.M. Ahmadi.

**IOS organises two-day international conference on Personality,
Thought and Times of Malek Bennabi
(March 18-19, 2023)**

A two-day international conference on “Personality, Thought and Times of Malek Bennabi”, was organised by the Institute of Objective Studies on March 18-19, 2023 in hybrid mode.

Inaugural Session

This conference began with the recitation of a verse from the Holy Qur’an by Maulana Ajmal Farooq Nadwi, in-charge, Urdu section of the Institute.

Secretary General, IOS, Prof. Z.M. Khan, welcomed the participants and highlighted the activities of the Institute.

Presenting the profile of Malek Bennabi, Vice-Chairman, IOS, Prof. M. Afzal Wani, observed that Bennabi’s span of life was spread over to the most crucial phase of Muslim depression, two world wars and the cold war. He wrote extensively on the theme of Muslim recession and measures to regain their lost potential to create a better world. Prof. Wani insisted that Malek Bennabi tried to put forward the idea that the reason for Muslim backwardness was the non-existence of new ideas in that society. He projected it by coining the phrase ‘civilisational bankruptcy’. Bennabi argued that to recuperate their past splendour, Muslims had to create an environment of empowerment of individual for satisfying their spiritual and material wants with a feeling of reward for their industry and creativity. He argued that Malek Bennabi had interest in Indian culture which began in his adolescence by reading an essay on Rabindranath Tagore (1861-1941). The impression made on him by reading this article was so strong that he kept it in his vivid memory and observed: “Tagore liberated me from the slavery that strongly affected the minds of Arab intellectuals towards the genius and culture of Europe...” “Genius is not only born on the banks of the Seine or the River Thames. It can also be born on the banks of the Ganges”. Malek Bennabi’s efforts in building modern Islamic thought and in studying

civilisational problems in general were distinct, whether in terms of the topics he dealt with or in terms of the approaches he adopted; he pointed out.

Former Algerian minister and politician, Nouredin Boukrouh's speech on the contribution of Malek Bennabi, was read out by the Algerian doctor and his disciple, Aida Sai. In his impression, he said that Malek Bennabi was an Algerian thinker who lived from 1905 to 1973. His education was in engineering. He received a dual education (Arabic, Islamic and French) which he supplemented with human and international culture through his experiences in Eastern and Western cultures, his readings and his intellectual path.

Boukrouh noted that Malek Bennabi's writings centered mainly around the renaissance of the Islamic world which he presented not as an additional force on the global chessboard, but as a spiritual and moral force that could contribute alongside other cultures, such as that of India, to the project of building "human civilisation". Bennabi's interest in Indian culture began in his adolescence by reading an essay on Tagore (1861-1941). The impression made on him by reading this article was so strong that he kept it in his vivid memory because he wrote about this discovery in his autobiography "Memoirs of a witness to the Century: The Child".

Boukrouh said that in the thirties, Bennabi was in Paris where he pursued his higher education. In this context, he became interested in the echoes of the non-violent struggle led by Mahatma Gandhi (1869-1948) in South Africa to liberate Hindu society from racism of Afrikaners. In 1934, it was learnt that Mahatma Gandhi was coming to France to give a lecture. The event was being organised by the North African Muslim Students Association to which Bennabi was affiliated. Bennabi's relationship with India could not be reduced to a growing admiration for the great spiritual figures of this national civilisation such as Tagore, Vivekananda (1863-1902) and Ramakrishna (1836-1986), or for its moral and political mentors such as Gandhi and then Nehru (1889-1964). Thus, Hinduism, which Gandhi re-adapted to the preoccupations of modern India, entered the thought of Bennabi, who made it one of the pillars of his book

“A pro-Asiatism”. In doing so, he was following in the footsteps of the great Arab researcher and explorer Ibn Ahmed al-Biruni who lived in India about a thousand years before him (973-1050), he held.

Describing Bennabi, as “the thinker of human civilisation” Nouredin Boukrouh observed that he positioned himself in a global vision. Even when he dealt with the Algerian Renaissance in 1949 in his book, “Conditions of the Renaissance” (published in 1949), he concluded it with this question, can our era generate a civilisation that is the civilisation of humanity and not the civilisation of a people or a bloc?” As if Bennabi hardly cared about the present, his greatest concern was about the future, he saw little good in the state of things around him, he was excited only by history and by immense power that drove him to look forward to his conclusions, he remarked.

Inaugurating the conference, Dr. Hisham Al-Talib, President, IIIT, USA, said that Bennabi always stood for ideals and had no other objective than to cherish them. He noted that poverty could be solved by governmental reforms. The reason for the stagnation of society lay in unproductive activities. Dr. Hisham Al-Talib observed that he always stressed the need for intellectual honesty. His life was emotional and intellectual. Bennabi used to say that it was Qur’an that preserved Algeria, he added.

Delivering the key-note address, Prof. Dr. Abdelaziz Berghout, Dean, International Institute of Islamic Thought and Civilisation, IIU, Malaysia, held that Bennabi was not a simple academician, but a thinker. He invented the system of thought. He not only understood the system, but also understood it systematically. He understood the form of civilisation through Ibn Khaldun and that too in a unique way. He invented a formula of civilisation to solve problems. For him, civilisation was to study the problem through the civilisational process. Through his civilisational process, the civilisation would reach the other continent. He also studied pscho-social decline and rise of civilisation. According to him, civilisation could be understood in global perspective and Islamic civilisation was capable of solving world problems. He underlined the importance of India in the realm of universal civilisation. World peace was possible with the universal

civilisation. He emphasised that all the civilisations should come together to solve world's problems. He also called for revival of Islamic civilisation by way of creativity and innovation. He used many terms and terminology which were set in the realm of ideas, Prof. Berghout said.

Prof. Yusuf Ziya Kavakci, Founder Dean, Faculty of Theology, Ataturk University, & Founding IANT Quranic Academy, Richardson (Texas), USA, discussed Bennabi's historical and intellectual relevance. He practically worked on rebirth of civilisation, Islamic dialogue and Islamic Renaissance. He was very influential among Turkish youths, particularly non-religious ones. Prof. Kavakci said that he was not a man of movement but a man of ideas. He was a thinker. He used and developed the ideas, and then presented them. He was also a man who brought the Ummah to higher levels. He was like a nightingale roaming for the Ummah. Bennabi was very concerned over declining Muslim civilisation.

In his presidential remarks, Prof. Omar Hasan Kasule, Secretary General, IIIT, USA, said that Malek Bennabi was an African who gave new ideas about civilisation. He was the second Ibn Khaldun in this century. He lived in the times of turbulence in Algeria. He suffered a lot of discrimination during the French suzerainty over his country. Many Algerians were beaten and killed during the period. Due to colonialism, he focused his attention on civilisation and culture. As a doctor, he analysed the cause of Islamophobia and colonialism. He thoroughly studied Ummah's problems and came to the conclusion that only integrated knowledge could solve its problems. Naqli knowledge was superficial and could not meet the challenges faced by the Ummah. He went through Islamic knowledge of Qur'an and Sunnah. He was a man who connected Naqli knowledge with Asli knowledge, Kasule held. Prof. Kasule said that Bennabi's ideas should be applied to solve today's problems.

The occasion was marked by release of the book, "Life and Work of Prof. Ismail Raji Al-Faruqi" by Dr. Hisham Al-Talib. The book, edited by Prof. Hamid Naseem Rafiabadi, has been published by the IOS.

The inaugural session ended with a vote of thanks proposed by the Assistant Secretary General, IOS, Prof. Haseena Hashia.

Technical Session-I

The first technical session was devoted to “Background, education, personality and understanding of Malek Bennabi”. Prof. M. Afzal Wani was in the chair.

Huda Abdul Kareem, research scholar, Al-Jamia Al-Islamiya, Kerala, focused on the educational and the personality of Malek Bennabi. He said that Bennabi studied at a traditional institution for religious education. He received modern education in a French-run institution and reverted to Islam later after understanding Western civilisation. Dr. Hendri Tanjung, Vice-Director, Postgraduate School, Ibn Khaldun University, Bogor, Indonesia, held that he came to know of him while in Islamabad. Born in Algeria, he wrote several books. He studied in Muslim educational institutions and wrote on Islamic civilisation. He avoided bankruptcy of ideas by propounding his own ideas. Those days Cairo was the nerve-centre of the African centre of Islamic thinking. He had opined that the dynamics of society came when one gave new ideas. Toufeeque Umar, research scholar, Darul Huda Hangal Campus, Kerala, noted that Malek Bennabi opened his eyes to Islamic values. After learning Arabic, he was attracted to Saudi Arabia. He was interested in electricity and other trades in science, engineering energy; etc. He wrote more than 35 books on Islam. Prof. Ammar Gasmi, from Faculty of Fundamentals of Religion, Department of Doctrine and Comparative Religions, Prince Abdelkader University of Constantine, Algeria, devoted his paper to the ‘Living Quranic Batch’ and the Resumption of the Civilised Role of Malek Bennabi’. He pointed out that Bennabi was different from other scholars as he went to the bottom of the problem. He was a natural person who created ideas to action. Prof. Ould Seddik Miloud, Department of Political Sciences, University of Saida, Algeria, spoke on ‘The Impact of the Social Environment on Building the Personality and Ideas of Malek Bennabi’.

Technical Session-II

Chaired by Prof. Haseena Hashia and co-chaired by Prof. Fauzan Ahmad, Department of Arabic, Jamia Millia Islamia, New Delhi, the session focused on “Global social, political and economic situation in times of Malek Bennabi and main challenges faced by Muslims in the 19th and 20th Century.”

Obaidur Rahman Naufal, research assistant, Center for Study and Research, New Delhi, spoke on ‘A Comparative Study of Malek Bennabi and Fanon's Thoughts on Colonialism’. Ruqayya Aslam, research scholar, Aligarh Muslim University, Aligarh, discussed ‘Malek Bennabi: Post-Almohad Man and the Challenges for Future’, Ibrahim Abdelali, PhD. scholar, Department of History, University of Algiers, Algeria, spoke on ‘Colonialism in Our Souls (Malek Bennabi)’. Aleena Nasar, student, Al-Jamia Al-Islamiya, Santhapuram, Kerala, focused on ‘Effect of Christianisation in Colonial Algeria: Reasons and Solutions Proposed by Malek Bennabi and Lessons for Indian Muslim Society’. Tahar Saoud & Dr. Hosni Ibrahim, Abdel-Azim, Department of Sociology and Social Work, Sultan Qaboos University, Sultanate of Oman, Assistant Professors, Sultan Qaboos University, Sultanate of Oman, devoted to the topic ‘The Cultural Environment and Its Impact on the Formulation of the Idea of Activity in the Malek Bennabi Renaissance Project’.

Technical Session-III

The third technical session was focused on “Causes for political, social and economic recession of Muslims in the 19th and 20th Century”. Prof. M. Ishtiaque, Former Vice-Chancellor, Magadh University, Bodh Gaya, Bihar was in the chair.

Dr. Nirwan Syafrin, senior lecturer, Ibn Khaldun University, Bogor, Indonesia, touched upon the topic. Dr. Nadjat Boukezzoula, lecturer, Department of Arabic Language and Literature, M'Hamed, Bouguerra University of Boumerdes, Algeria, spoke on ‘The Other and the Stakes of the Self in the Memoirs of a Witness on the Century by Malek Bennabi’. Prof. Lahlou Boukhari, Faculty of

Economics, Mohamed El-Bachir El-Ibrahimi, University of Bordj Bou Arreridj, Algeria, focused on 'Malek Bennabi's viewpoint on international system as a source of economic decline in the Muslim world'. The session ended with the presentation of the paper on 'Malek Bennabi and the revival of the Khaldunian thesis and mode of thinking' by Dr. Badrane Benlahcene, Associate Professor, Qatar University, Qatar.

Technical Session-IV

The fourth session was devoted to 'Emergence of thought and methodology for revival and renaissance of Muslim society as propounded by Malek Bennabi and other contemporary thinkers'. Prof. Habibullah Khan, Department of Arabic, Jamia Millia Islamia, New Delhi, chaired the session.

Prof. Syed Jamaluddin, Director, IOS Centre for Historical and Civilisational Studies, Aligarh, touched upon the topic 'Malek Bennabi on Culture and Civilisation'. Dr. Mohammad Teisir Bin Shah Goolfee, educator, Islamic Cultural College, Vallée Des Prêtres, Port Louis, Mauritius, spoke on 'Civilisation and Renaissance: A Study of Malek Bennabi'. He said that according to Bennabi, Renaissance meant self-change. Man himself was responsible for development and decline. Prof. Bourouayah Mohamed, former Vice-Rector, Emir Abdelkader University of Constantine, Algeria, spoke on 'Malek Bennabi's Approach to the Civilisational Awakening of the Islamic World'. He observed that head, heart and mind constituted the power of civilisation. Mohammed Hassan Khan, research scholar, Jamia Millia Islamia, New Delhi, focused on 'Malek Bennabi and the idea of the Islamic Common Wealth'. He held that Islamic Common Wealth revolved around the idea of the unification of Muslim countries. There should be mutual respect and cooperation, and not conflict among countries. Concept of Islamic Common Wealth was based on social justice and dignity. Dr. Rawiya Kouachi, Mohamed Lamine Debaghine Setif 2 University, Algeria, touched upon the topic 'Malek Bennabi: Reasons of Muslims Recession and Measures for Progress'. Nuruddin Al Akbar, researcher, Universitas Gadjah Mada, Indonesia, spoke on 'Malek Bennabi and Islamisation for

Knowledge: The Critique of Cartesian Reason'. Dr. Mohammad Ajmal, Assistant Professor, Jawaharlal Nehru University, New Delhi, dwelt on 'Intellectual Quest of Malek Bennabi to Resolve the Issues of Global Muslim Society'. Dr. Tanjeel Ahmed, PhD. independent scholar, Aligarh Muslim University, Aligarh, spoke on 'Empowering the Societal Structure through the Islamic Ideas of Malek Bennabi'. Ounissa Ait Benali, Doctorate, MCA, University of Bejaia, Algeria, focused on 'Beyond the Complex of the Colonised: Malek Bennabi's Colonisability'.

Technical Session-V

Chaired by Prof. Mohammad Sohrab, M.M.A. Jauhar Academy of International Studies, Jamia Millia Islamia, New Delhi, the fifth session was devoted to the 'Criticality of methodology and measures for progress suggested by Malek Bennabi'.

The session started with the presentation of a paper on 'Bennabi's Reflection on Risk Society' by Dr. Hafsa Elagag, Department of Sociology, Faculty of Social Sciences, University Mohamed Ben Ahmed, Belgad, Algeria. Mohamed Fadel Belmoumene, PhD. scholar, University of Malaya, Malaysia spoke on 'The Concept of the Religious Idea in Malek Bennabi's Thought'. Amina Fellah, Political Science Department, University of Constantine, Algeria, focused on 'The Influence of the Socio-Cultural Context on Malek Bennabi's Personality and Thought'. Dr. Rahmatullah, Post-Doctoral Fellow, Department of Islamic Studies, AMU, Aligarh, spoke on 'Malek Bennabi: An Islamic and Social Thinker of Modern Times'.

Dr. Mohammad Azharul Islam, Associate Professor & Head, Department of Law, Manarat International University, Bangladesh, touched upon the topic 'Revisiting the Vitality of Malek Bennabi's Interdisciplinary Approach to Civilisation in Contemporary Era'. Syed Saifuddin, researcher, International Islamic University, Malaysia, expressed his views on 'Comparing Malek Bennabi's and Ali Shariati's Thoughts on Social Change'. Dr. Anas P. Aboobacker, Post-Doctoral scholar, Kerala Council for Historical Research, Kerala focused on 'A Critical Analysis of Malek Bennabi's Approaches to

Reconstruction of Muslim Ummah in Contemporary World’. Dr. Aasha Siddiqua, Post-Doctoral Fellow, Aligarh Muslim University, Aligarh, spoke on ‘Malek Bennabi’s Views on the Role of Religion as a Major factor in Civilisation’. Shaikh Afran, Darul Huda Hangal Off Campus, Kerala spoke on ‘The Problem of Civilisation: Rethinking the Concept of Malek Bennabi. Mouchi Amel, University of Batna, Algeria touched upon the topic ‘Malek Bennabi: An Asian Thinker’. Md. Lalchand Sk, research scholar, Department of Islamic Studies, Jamia Millia Islamia, New Delhi, spoke on ‘The Necessity and Significance of Education with Special Reference to Malek Ibn Nabi’.

Technical Session-VI

Chaired by Prof. M. Afzal Wani, the sixth session was devoted to the “Relevance of the thought of Malek Bennabi to present day circumstances”.

The session began with Jamaliah Jamil, industry & academic researcher, Universiti Teknologi, Malaysia speaking on ‘Revitalising Civilisation: The Timeless Relevance of Malek Bennabi’s Vision for Muslim Progress in 21st Century’. Hifni Nasif & Maulida Izzatul Amin, University of Darussalam Gontor, Indonesia, threw light on ‘The Concept of Islamic Civilisation according to Malek Bennabi.’ Dr. Larbi Ismail, PhD. scholar, Abou Bakr Belkaid University, Tlemcen, Algeria, spoke on ‘Civilisation in the Thought of Malek Bennabi’. Mr. Hashim Mogahed, postgraduate research scholar, Al-Jamia Al-Islamiya, Kerala focused on ‘Revisiting Bennabi’s Thoughts on Muslim Women’.

Valedictory-Session

Dr. Abdullah Al-Lheedan, Visiting Professor, KSA was the Guest of Honour. Prof. Haseena Hashia read out some portions of his speech. In his speech, Lheedan described Malek Bennabi as one of the pioneering intellectuals of Islam. He was the first scholar who defined the dimensions of the problem. He said that Bennabi had the conviction that unless Muslims changed their spiritual condition, they could not effect far-reaching meaningful change in society. Bennabi

argued that to recuperate their past splendour, Muslims had to create an environment of empowerment of individual for satisfying their spiritual and material wants with a feeling of reward for their industry and creativity. Bennabi was said to have defined culture as the approach to life and fetching of society to being which included aesthetic, ethical, pragmatic and technical standards. According to him, various formulations of ideas were born only when these values were clearly defined.

Dr. Lheedan observed that Malek Bennabi was an intellectual, prominent social thinker and Muslim reformer in post-world war-II. His thought on civilisation, particularly Islamic civilisation, stood remarkable, he concluded.

Delivering the valedictory address, Prof. M. Ishaque, Dean, Faculty of Humanities and Languages & Former Head, Department of Islamic Studies, Jamia Millia Islamia, New Delhi, said that Malek Bennabi had a deep thought for Islam and rejected the western thought. He had a Qur'anic phenomenon with inter-disciplinary approach to it. He argued that Muslims should create an atmosphere of empowerment for the development of society. He believed that fundamentalism suppressed the idea of modernity. He believed that there were three elements of civilisation—man, soil and time. These could be found in every society. He added that reformists did not know how to reform Muslim society.

In his presidential remarks, Prof. M. Afzal Wani said that Bennabi was recognised across the globe. He was a complete human being and scholar. He looked to the works of Indian scholars as to how they looked at colonialism. He had Qur'anic mind. Bennabi felt the sufferings of Indians during the colonial rule. He described Bennabi as a very distinct scholar. He was the best of authors and thinkers. He also described Bennabi as an exemplary personality.

On this occasion, a 7-point resolution was unanimously adopted by the delegates. The resolution read as:

1. While in 20th Century, the whole world faced the horrible situations of Two World Wars and the Cold War bringing miseries to the whole of humanity, there have been also found thinkers and benefactors of humanity like Malek Bennabi who have made efforts to project thought for survival of all groups of people to create a balanced world order.
2. While Malek Bennabi was an Algerian Thinker and Engineer, he studied the social, economic and political conditions of the people all over including India with due appreciation of Indian multiple culture and talent to be maintained for the good of the humanity.
3. While Malek Bennabi made modern methodical studies on the recession of Muslims in the world, he came out with scientifically appreciable solutions based on the need for analysis, creativity, new thoughts and objectivity, without any general discouraging impact from influences of material developments elsewhere.
4. While literature encompassing most of the aspects of civilisational changes had been developed in the world, especially in Europe, Malek Bennabi developed thought for progress of Muslims and their march ahead, based on the Qur'an, the life of the Prophet and the Muslim literature with due reason and rationality.
5. While facing challenges from theorists living in the scientific and technologically rich environment, Malek Bennabi successfully made a way for thinking with spiritual upbringing ingrained in the revealed knowledge, mainly the Qur'an.
6. While the philosophical contribution of Malek Bennabi has been studied by scholars with concern in various institutions and universities, identifying reasons for colonisation, oppression and inequality, the scholars are urged upon to pay more attention on his writings to identify the thought for a

balanced approach in present globalising world for more equity, equality and justice for all human beings living in various jurisdictions.

7. While the scholars are working on Malek Bennabi's contribution in their individual capacities, they are urged upon to appreciate courageous attitude of Malek Bennabi to face most difficult situation of his times, and to collaborate and cooperate with institutions and among themselves to develop appropriate methodologies to face the challenges of our times for maximum benefit from this acclaimed thinker.

The conference concluded with Prof. Haseena Hashia proposing a vote of thanks to the participants.

**IOS Lecture on Idea(s) of India
(June 27, 2023)**

A lecture on “Idea(s) of India” was organised by the Institute of Objective Studies here on June 27, 2023 at its Auditorium. The lecture was delivered by the noted social scientist, Professor & Dean, School of Development Studies, Tata Institute of Social Sciences (TISS), Mumbai, Prof. Ashwani Kumar.

Introducing the topic, the Vice-Chairman of the Institute, Prof. M. Afzal Wani said that the lecture explained the making of India as a historically layered, diverse and eclectic community of people and identities. While celebrating the ideas of diversity, the lecture further explored how India continued to survive its own success despite challenges to its foundational ideas. He also presented a brief profile of Prof. Ashwani Kumar.

Delivering the lecture, Prof. Ashwani Kumar stressed the need for the dialogue of ideas. It was Rabindra Nath Tagore who first used the term ‘idea of India’ which offered a new view of the engagement. He said that shared heritage was in danger today and thus the idea of India was in danger. Instead of ‘an idea for India’ the country needed a pluralistic perspective of the idea of India, he noted.

Prof. Kumar said that the idea(s) of India was mandatory for the nation and its citizens. Projecting an exemplary framework of varied roles of freedom fighters, representing different social and religious backgrounds, he explained how diverse ideas brought to the fore the idea of an inclusive India in pre-independent India. He highlighted extensively research outcomes through a historic news clip headlined “Birth of India’s Freedom” to thoroughly examine the Nehruvian philosophy of the country’s socio-political development. “Nehru always dreamed of an idea of India and foresaw that ideal democracy to find room for the post-colonial rule. The focus of India’s idea(s) today was on shared heritage for the nation’s holistic growth. Propagating “shared culture and commitment for sustaining the core values” was mandatory in the present context, he noted.

Prof. Kumar held that there were many examples of diverse ideas which inculcated a spirit of a progressive India in its diversity. Citing an example, how the famous slogan “*Inquilab Zindabad*” (Long Live the Revolution) by Maulana Hasrat Mohani still had a lasting impact on Indian societies. The whole idea of revolution paved the way for nation-building concept by accommodating countless ideas. Contrary to Maulana Hasrat Mohani, the poems of Faiz Ahmad Faiz expressed the anguish felt by the poet in the divided Indian subcontinent context—India and Pakistan—and the shared pains in the form of unavoidable realities these societies faced over and over again as if respective countries were still not free. By using the Nehruvian framework for an idea of India, the nation would certainly move on the path of prosperity. The proven fact was that India was a nation of nations; it was not monogamous. It was a land of collective thoughts, languages, cultures and ideas, he emphasised.

Prof. Kumar insisted that Sunil Khilnani in his book used the phrase ‘the idea of India’. The idea of India and the ideas of India were there to understand what India was. There had to be multiple ideas. If there were several Hindustans, there was one Hindustan. Undoubtedly, there was no single idea, but the numerous thoughts of India, and they accommodated multiple cultures, religions, faiths and ethics, paving the way for harmonious, yet diverse Indian societies. Multiple contrasting, yet compelling ideas belonging to everyone made an idea(s) of India for the Indian societies to flourish. In the context of the current political situation and the scenario of hatred against different communities was apparent, especially minorities in India were being used as a tool for partisan political gains. It is high time to evaluate Nehruvian philosophy and what Rabindranath Tagore said and thought about nationalism & patriotism. With regard to differentiation between various languages and cultural subjugations in linguistic terms, one must understand that there was nothing external or internal language barrier. The idea that India had many languages and their incorporation into a single nation fitted into that idea.

Prof. Kumar traced the origin of the term, “the idea of India” and said that it was a poetic, philosophical and political in nature.

According to historian, Ram Chandra Guha, the idea was articulated by Tagore, Dr. Ambedkar and Indian Constitution. What was needed was to re-evaluate the ideas of both Mahatma Gandhi and the Frontier Gandhi, Khan Abdul Ghaffar Khan, to feel how Gujarat and Kabul bestowed a similar spirit of humanity and social bonding. Likewise, the thoughts of Babasaheb Ambedkar were more crucial today to nourish Indian societies for ideas of India to build it as a prosperous nation. Ideas with guidance from India's towering leaders and freedom fighters like Sardar Patel, Maulana Abul Kalam Azad, etc., propagating constitutional democracy and secularism should make India a strong nation. Similarly, the contributions of early liberal feminists like Rajkumari Amrit Kaur, Sarojini Naidu, and Vijaya Lakshmi Pandit could not be underestimated for a diversified, yet united Indian spirit of freedom of womanhood for prosperity. When talking about visionary women, India could not ignore the remarkable roles played by Begum Aizaz Rasul, the only Muslim women member of the Constituent Assembly. Likewise, India could not ignore Jaipal Singh Munda in the context of country's struggle for Tribal rights.

In his lecture, Prof. Kumar differentiated between the market and *bazaar* to understand India's integrity from a socio-economic point of view. As Nehru spoke on the night of August 14, 1947 that the idea of freedom wiped off the tears of every citizen, there was still the need to think and rethink on it. Oneness did not mean one community, one culture, one language or anything else that symbolised or enforced majoritarian thought while ignoring or suppressing the rest, he concluded.

The lecture was followed by a question-answer session in which Prof. Kumar replied to several questions from the audience on ignominy and partisan ideas gripping the Indian society to fulfil vested interests. He emphasised how the Indian Constitution safeguarded everybody's rights, but its socio-political misuse portended ill for the country.

In his presidential remarks, Prof. M. Afzal Wani, Vice-Chairman, IOS, said that India could not be scripted in one mind. There could not be a uniform culture. It was diversified in several respects. India's

setback on several issues was rooted in politics. The country was not made on economic indicators. It had to become important in economic terms. He stated that India was making stunning progress in different spheres. The present crisis was not social but political. He said that India had to achieve set goals of the Constitution, which included human dignity, equality, liberty, etc. The task that lay ahead was of nation-building. The development should take care of the welfare of people.

Lauding the role of Tata Institute of Social Sciences (TISS), Prof. Wani held that it was doing a great work in the field of research on social issues. He said that an academician should not fail to write. He advised against being divided into political groups. He complained that truth was not being explained and certain things in Vedas were not being presented. He suggested that TISS should offer short-term courses for the benefit of scholars. He briefly elaborated on the activities of the IOS and referred to the visionary leadership of IOS Chairman, Dr. Mohammad Manzoor Alam. He further said that academic empowerment must continue to ascertain variegated ideas for India to nourish the nation that should thrive with a vast pool of intellectual minds.

Prof. Wani conducted the proceedings and thanked all the attendees of the lecture.

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Post Box No. 9725
162, Jogabai Main Road
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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

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