

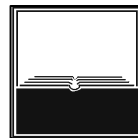
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ORIGIN AND DEVELOPMENT OF FEDERALISM IN THE UNITED STATES AND INDIA - A CRITICAL ANALYSIS

*Dr. Mohd. Ahmad**

ABSTRACT

When we ponder upon the interpretations on federalism based upon relations between the Union and the States, there is a demand for proposition building to such interpretations. This study article attempts to handle certain federalist ideas in the modern world, which will be implemented by paying attributes in the form of two nations, namely the USA and India. The study tries to have a research-based focus on federalism in these two States. The key factors that might determine the study of Federalism shall be based on its origin, development and critically analysing why they are needed. In an enquiry for explaining federalism, every kind of propositions is accepted together which interprets federalism as a political framework that endeavours two degrees of government with delegated powers and works emerging from an assortment of social, monetary, and political reasons. Also, the paper investigates “federalism” as a theoretical idea of political hypothesis like an “organisation” as an unmistakable term implying an arrangement of government on different levels.

Introduction

When examining the principles of contemporary political ideologies such as nationalism, socialism, liberalism, and conservatism, two things stand out: these are concepts with seemingly different viewpoints held by different individuals. This idea is also true of the concept of "federalism" in American and Indian culture. Although

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there is agreement on the notion, there are also differences in how people and communities understand it. However, federalism is divulging in meaning to the other ideals of other modern political theories in various parts of the world. Mostly, the writers of the American Constitution created and made possible federalism in 1787, in contrast to other systems that formed on the European Continent after the French Revolution. Second, the phrase will be studied in relation to the presidential structure of the constitutional setup, which is normative in nature!

If we treat federalism as a concept, then we will use the term "federation" when referring to the traditional writers, including K. C. Wheare & William Riker, even if they frequently used the phrase "federalism".¹ The central government of the USA is known as the "federal government".² How can we differentiate between "federal" regimes like the US and India? Decrypting their real political systems is one method. As a result, both the United States and India are unique forms of federations.³ In a federation such as India, the separation of powers between the Union and State governments is stressed, while in the US, the separation of powers concept, limited government, and checks and balances are only a few of the ideals that guide policy. In summary, descriptive research on American federalism is robust, but theoretical analysis is lacking.⁴

The majority of federalism ideas center on the interactions between the federal government and the states in terms of legislation, finances, and administration. This essay attempts to address the idea of federalism while taking into account the current states of federalism in India and the USA.⁵ Globally, the USA Constitution of 1787 is regarded as the prototype for the federal system of governance. Federalism was thereafter adopted as a form of political

¹ K.C. Wheare, *Federal Government*, fourth ed. Oxford, 1963, p. 33.

² *Ibid.* at 2.

³ *Ibid.* at 2.

⁴ See Thomas J. Anton, *American Federalism and Public Policy* (Philadelphia: TUP, 1989), p. 2.

⁵ William S. Livingston, *Federalism and Constitutional Change*, 1956, p.9.

organisation and included in the US and Indian constitutions. The following headings will be used to discuss the same.⁶

Origin and Development of Federalism

In spite of the immense writings regarding the concept of Federalism, the idea of federalism still stays dicey. As the designers of the US Constitution imagined present day federalism, political scholars have commonly characterised the idea of federalism keeping in mind the suitability of the government and highlights of the constitutionalism itself. In any case, very much like the composers of the Constitution of the US, designers of a few different constitutions have additionally molded their constitution as per their governmental circumstances that didn't happen to be the very same sort of constitution as that of the US.⁷ As several kind of constitutions contrast from each other as well as from the Constitution of the US, any idea of federalism should assess that distinction by similar examination of government composing of that large number of constitutions like that of the United States' Constitution and Indian Constitution.⁸

Looking at the distinction between the arrangements of a constitution and their activity by K.C. Wheare likewise drew the distinction between a bureaucratic constitution and a central government-based constitution and tracked down three constitutions of US, Switzerland and Australia and fourth legislatures, prior three and that of Canada were bureaucratic. Others were either semi-government, confederation or unitary yet not administrative. He

⁶ Ronald Watts, "Contemporary Views on Federalism" (Paper presented at the Centre for Constitutional Analysis, Republic of South Africa, 2-6 August, 1993), p. 11.

⁷ Riker, *Federalism*, p. 5.

⁸ A number of recent authors have made my threefold distinction, but have used different terminology. See, for example, Michael Burgess, "Federalism and Federation: A Reappraisal", *Comparative Federalism and Federation*, eds. Michael Burgess and Alain G. Gagnon (Toronto: University of Toronto Press, 1993.)

remembered the Indian Constitution and government for the class of semi-federal.⁹

The composers of the Constitution of India realised well that federalism was not a clear idea and missed the mark on stable significance. Accepting that every federation had answered its own circumstance and India had remarkable issues not stood up to by different federations in the set of experiences, they "delivered another sort of federalism to meet India's curious needs".¹⁰ They began their considerations under the pre-freedom imperatives which visualised a central government with specified powers passing on the buildup to the states.¹¹ However, not long after the choice for freedom was reported they liberated themselves from those limitations and chose to have "a bureaucratic design with areas of strength for simultaneously, they dismissed the proposition for a unitary constitution in which provincial units would work just as specialists and representatives of the Centre."¹² Toward the finish of their consultations they created a constitution which resembles to the maxims of "administrative", "federalism" or "organisation" any place.¹³

Insight of United States Federalism

For almost two centuries, there has been a major point of contention over the overall scope of federal and state powers under the U.S.

⁹ In his "Contemporary Views on Federalism", Ronald Watts entitles his important section 3 "The Concepts of Federalism, Federal Systems and Federation". To take his analysis a step further, I confine the term "concept" to federalism, and use "federative systems" where he uses "federal systems". We use "federation" in the same way.

¹⁰ *S. R. Bommai & Ors etc., v. Union of India & Ors etc.*, S.C. 215.

¹¹ As an example of scholars' dependence on the American model, see the first page editions of Wheare's classic text: "The modern idea of what federal government is determined by the United States of America". K. C. Wheare, *Federal Government* (London: University Press, 1946).

¹² "We say "in principle" because in practice the United States has often been engaged in defense and space research, the dominant role of the federal government.

¹³ See, for example, Robert Vance Presthus, *Elite Accommodation in Canadian* Cambridge University.

Constitution. In the US government, federal courts have regularly weighed in both favour and against the maintenance of bureaucratic power. Legal analysis has defended important boundaries of government power in certain circumstances by invalidating administrative rules deemed to be outside the purview of Congress's powers as delineated in Article I of the US Constitution. Concurrently, federal courts have regularly upheld state authority by challenging state regulations on the grounds that they violate established rights. While state independence and centralisation have both benefited from legal survey at different points in time, the former has been strengthened in the process. This case has been especially common since the 1930s, when the US Supreme Court abandoned cases before attempting to exercise legislative authority as much as possible, all the while enacting a growing display of individual liberties in opposition to the government and laws.¹⁴ This study examines the impact of legal survey on American federalism without attempting a standardising judgment and comparison made to Indian Constitution; it does not take into account the extent to which Federal courts' opinions on federalism and individual freedoms have been correct. The study briefly discusses how American federalism was constructed and how legitimate it is legally before illustrating the background of the legal analysis of the key limits on governmental authority in Indian history. The historical context of the state regulations' legal daring is then summarised in that section. Research on the range of topics on which federal courts have invalidated state regulations is highly encouraged because it is unimaginable to conceive of it in this way. Still, that is a significant area of strength for research and demonstrates how far the courts have checked governmental governing authority.

Generally speaking, the impact of these rulings on completely restricting state independence outweighs the effects of the courts' more limited attempts to impose federal control.¹⁵

¹⁴ Michael Lusztig, "Federalism and Institutional Design: The Perils and Politics of a Triple-E Senate in Canada", *Publius : The Journal of Federalism*, 25 (Winter 1995): 35-50.

¹⁵ See Douglas V. Verney, "From Responsible Government to Responsible Federalism", *Canadian Constitutionalism 1791-1991*, ed. Janet Azjenstat

Insight of Indian Federalism

The Indian federalism, framed basically by the division of a concentrated unitary state after freedom from English rule in 1947, works under a parliamentary-government constitution that lays out both the Union and the States, making broad arrangement for their particular foundations, powers, and works inside the Indian federal setup. Indian courts - the Supreme Court and State High Courts - assume a vital part in characterising and creating Indian federalism.¹⁶ They are explicitly conceded the force of legal survey predicated on the fundamental rights of citizens and limited division of powers comprise with the parliamentary type of government for both the union and state legislatures. Besides, extra-sacred elements like the creation of new states numbering more than twelve starting from the beginning of the Constitution in 1950 and the ascent of roughly twelve of new states have altogether affected the operations of the government framework. Ostensibly, these improvements have expanded the likelihood of intergovernmental jurisdictional struggles making a fruitful ground for settlement.¹⁷

While the impact of freedom has for the most part been to cultivate cross country approaches and activities, subsequently building up the parliamentary part of the Constitution, federalism settlement has to a great extent kept up with the independence of state lawmaking bodies and legislatures, despite the fact that the constitutional text contains no unequivocal hypothesis of states' privileges.¹⁸ Especially since the development of the legal principle of the basic structure doctrine of the fundamental design of the Constitution in *Keshavananda Bharati v. State of Kerala* (1973)¹⁹, the Supreme Court has

(Ottawa: Canadian Study of Parliament Group 1992), pp. 84-98 and "Are All Federations Federal? The United States, Canada and India", Multiples Identities in a Single State: Indian Federalism in Comparative Perspective, eds. Balveer Arora and Douglas Verney (New Delhi: Konark, forthcoming).

¹⁶ Aaron Wildavsky (ed.), *American Federalism in Perspective*, Little Brown & Company, Boston, 1967, p. 178.

¹⁷ Venkatrangaiya, *Some Theories of Federalism*, 1971, p. 41.

¹⁸ *Ibid.* 18; Sharada Rath, *Federalism Today*, Sterling, New Delhi, 1984, p. 11.

¹⁹ *Keshavananda Bharati v. State of Kerala*, A.I.R., 1973, Supreme Court.

expanded its force of legal survey past regulative and chief demonstrations to incorporate structural changes, ostensibly making it the most remarkable established court on the planet. The established courts in India have, in general, continuously got away from severe legalism and restriction to legal activism in the post-Nehru time. The courts have, after some time, kept away from a reliably severe federalist or statist interpretative position. To be sure, one expert has contended that in the time following the 1989 election and the decline of Congress Party predominance, "the Indian Supreme court has attempted to foster unbiased constitutional values that forestall the conflation of sectarian political inspirations with naturally legitimate government interests".²⁰

Journey of Federalism over the years in the United States of America

On the off chance that, federalism is an idea, how could it be characterised in this paper? It is most straightforward to start by characterising American federalism. Though in federations like Canada and India, the emphasis is on the distribution of powers between union and state legislatures, but in the US Constitutional Setup, the division of powers is only one of a bunch of standards, like limited government, governing rules, the separation of powers, and what, after the French Revolution, became known as progressivism. American federalism involves this arrangement of standards. The reception of the idea of federalism as a bunch of interlocking in view of the freedom of the individual made the US Constitution remarkable.

The United States is one of the world's largest and most diverse federal systems. The United States has been by far the world's largest economy and is also among the world's wealthiest nations in terms of per capita income. The U.S. federal system includes fifty state

²⁰ Sudhir Krishnaswamy, "Constitutional Federalism in the Indian Supreme Court", in *Unstable Constitutionalism: Law and Politics in South Asia*, ed. Mark Tushnet and Madhav Khosla (Cambridge: Cambridge University Press, 2015), 380.

governments, all of which have legally equal stance under the US Constitution. In general, most political liberals believe that the role of the federal government should be as great as or even greater as it is today, while most conservatives and libertarians argue that it should be reduced.²¹ At the same time, neither side of the political spectrum is consistent in its attitude towards federal power; conservatives sometimes favour expansions of federal power that seem in tension with their ideology, while liberals sometimes favour state autonomy. Overall, there is no consensus on where the boundary between state and federal authority should lie. However, very few American politicians wish to establish a fully unitary political system in the country.²²

As compared with most other federal systems, the United States is unusual in that there are almost no states where an ethnic, religious, linguistic, or racial group that is in the minority, within the state. In many other federal nations, the existence of national minorities that are regional majorities was one of the main justifications for the establishment of a federal system in the first place. The one partial deviation from the national trend is the state of Utah, where the majority population is made up of followers of the Mormon faith, a minority that endured persecution from both the federal and state governments during the nineteenth century.²³

The colonies united in a Declaration of Independence in 1776, and following an eight- year war that Americans refer to as the "Revolutionary War", Great Britain acknowledged the newly formed nation. The U.S. Constitution was drafted in 1787 and is the oldest continuously functioning written constitution in the world. It replaced the earlier Articles of Confederation, established in 1781, under which the powers of the federal government were significantly

²¹ William H. Riker, *Federalism: Origin, Operation and Significance* (Boston: Little, Brown, 1964), p. 5.

²² *Ibid.* at 23.

²³ *Report of the Expert Group to Review the Methodology for Estimation of Poverty, Government of India*, chair Suresh D. Tendulkar (New Delhi: Planning Commission, November 2009).

weaker.²⁴ Many political leaders, including George Washington, commander of the Continental Army that won the Revolutionary War, Alexander Hamilton, and James Madison, the eventual “father of the Constitution”, believed that the federal government created by the Articles was too weak, and tolerated far too much repulsive behaviour by the states. Political support for a more powerful federal government grew throughout the 1780s, and in 1787 a convention of state delegates, initially assembled to amend the Articles of Confederation, wrote a new constitution.²⁵

Specially called ratifying conventions held within the states adopted the new Constitution. According to Article VII of the Constitution, the document would become operative upon ratification by nine out of the thirteen states at that particular time. The Constitution was backed by numerous well-known politicians and Revolutionary War commanders. These included the renowned Federalist Papers authors John Jay, Hamilton, and Madison, who penned them in an effort to encourage ratification. However, some, like Patrick Henry and George Mason, disagreed with the Constitution because they thought it centralised too much authority in the hands of the federal government. The Constitution establishes a system of separation of powers within the federal government, with an elected executive (the President, Article II), a bicameral legislature (Article I), and an independent judiciary (Article III). The Senate, the upper chamber of Congress, is composed of two senators for each state. State legislatures once selected the senators, but since the 1913 ratification of the Seventeenth.

Amendment, the senators have been chosen by the general public. The lower chamber, the chamber of Representatives, is chosen by plurality vote in single-member districts that are distributed among the states according to population.²⁶

²⁴ Roy, “Regional Disparities in Growth and Human Development in India”.

²⁵ *Ibid.* at 27.

²⁶ Balveer Arora, “Republic of India”, in *Diversity and Unity in Federal Countries*, ed. Luis Moreno and César Colino, 201–26 (Montreal and Kingston: McGill-Queen’s University Press, 2010); and Rekha Saxena, “Is India a Case of Asymmetrical Federalism?,” *Economic and Political Weekly*, 14 January, 2012.

Trends of Federalism in the US in 18th and 19th Centaury

The ratification of the Fourteenth Amendment in 1868 marked a significant transfer of authority from state governments to the federal government, declaring United States citizenship paramount to state citizenship. Over time, the application of the Fourteenth Amendment and incorporation of the Bill of Rights to the states strengthened the federal government's power to protect against state intrusions upon individual rights.²⁷ The 14th Amendment ensured the shielding of fundamental rights of the individual citizen against the threats presented by rights of the state by the "Privileges or Immunities Clause".²⁸

Cooperative Federalism involved a looser interpretation of the Tenth Amendment.²⁹ More specifically, it supports the idea that the Tenth Amendment does not provide any additional powers to the states.[24] It operates under the assumption that the federal and state governments are "partners", with the federal creating laws for the states to carry out. It relies on the Supremacy Clause and the Necessary and Proper Clause as constitutional bases for its argument. Court cases such as the *United States v. Darby Lumber Co.*³⁰ and *Garcia v. San Antonio Metropolitan Transit Authority*³¹ expanded the role of Cooperative Federalism by forcing states to enforce federal labour laws.

Although Cooperative Federalism has roots in the civil war, the Great Depression³² marked an abrupt end to Dual Federalism and a

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²⁷ Epstein, Lee; Walker, Thomas G. (October 2, 2015), *Constitutional law for a changing America. Rights, liberties, and justice* (Ninth ed.). Thousand Oaks, California. ISBN 9781483384016. OCLC 910310223.

²⁸ "Privileges and Immunities Clause". LII / Legal Information Institute. Retrieved February 6, 2021.

²⁹ https://en.wikipedia.org/wiki/Tenth_Amendment_to_the_United_States_Constitution (as accessed on Date 26- 09-2023).

³⁰ 312 U.S. 100 (1941).

³¹ 469 U.S. 528 (1985).

³² https://en.wikipedia.org/wiki/Great_Depression (as accessed on 25-09-2023).

dramatic shift to a strong national government. President Franklin D. Roosevelt's New Deal policies reached into the lives of U.S. citizens like no other federal measure had. As the Supreme Court had rejected nearly all of Roosevelt's economic proposals, the President proposed the Judicial Procedures Reform Bill of 1937³³ to add more members. The expansion of the Court, which never materialised, along with a Democrat-controlled Congress, would tilt Court rulings in favour of Roosevelt's policies.³⁴ Lowi notes three Supreme Court cases that validated the shift in power: *National Labor Relations Board v. Jones & Laughlin Steel Corporation*³⁵, *Helvering v. Davis*³⁶, and *Steward Machine Company v. Davis*³⁷.

The national government was forced to cooperate with all levels of government to implement the New Deal policies; local government earned an equal standing with the other layers, as the federal government relied on political machines at a city level to bypass state legislatures. The formerly distinct division of responsibilities between state and national government had been described as a "layer cake", but, with the lines of duty blurred, cooperative federalism was likened to a "marble cake" or a "picket fence". In cooperative federalism, federal funds are distributed through grants in aid or categorical grants which gave the federal government more control over the use of the money.

New federalism in US

In the late 20th and early 21st centuries, a new movement dubbed "New Federalism" emerged. Richard Nixon was the inspiration behind a large number of the New Federalism concepts. President Ronald Reagan (1981–89) launched the "devolution revolution" in the early 1980s, marking the beginning of new federalism, which is

³³ Parrish, Michael E. (2002), *The Hughes Court: Justices, Rulings, and Legacy*, Santa Barbara: ABC-CLIO, Inc. p. 24. ISBN 9781576071977. Retrieved October 31, 2013.

³⁴ Gerston 2007, p. 57.

³⁵ 301 U.S. 1 (1937).

³⁶ 301 U.S. 619 (1937).

³⁷ 301 U.S. 548 (1937).

typified by a progressive restoration of authority to the states. New federalism persisted until 2001. Previously, the federal government had granted money to the states categorically, limiting the states to use this funding for specific programmes. Reagan's administration, however, introduced a practice of giving block grants, freeing state governments to spend the money at their own discretion. An example and the first case of this was *Garcia v. San Antonio Metropolitan Transit Authority (SMTA)*³⁸ (1985). Garcia was a worker for San Antonio Metropolitan Transit Authority and appealed that because San Antonio Metropolitan Transit Authority received federal money, that they had to abide by federal labour regulations. San Antonio Metropolitan Transit Authority argued that they did not because the money received was to be used at their own discretion and did not need to abide by federal statutes because they are locally operated and make decisions about the transit system. This gave more autonomy and power to the states by allowing them to use more discretion, not having to abide by federal regulations.

Under New Federalism, the question that is asked is whether the federal government constitutionally commands the states to carry out federal policy? For this, the courts use the anti-commandeering principle. "The anti-commandeering doctrine says that the federal government cannot require states or state officials to adopt or enforce federal law". This became the principle by *New York v. United States*³⁹ (1992). In this case, New York sued the federal government, questioning the authority of congress to regulate waste management. The courts ruled that it violated the 10th amendment because congress made the state of New York commandeer to federal regulations when states already take legal ownership and liability for waste treatment. Establishing this principle, states gained more autonomy on issues that fall under their discretion.

A modern-day application of this rule can be found in *Murphy v. National Collegiate Athletic Association*⁴⁰ (2018). New Jersey's governor

³⁸ 469 U.S. 528 (1985).

³⁹ 505 U.S. 144 (1992).

⁴⁰ 584 U.S. 16-476 (2018).

attacked the federal government's prohibition on sports gambling. The courts again used the anti-commandeering principle, allowing states to regulate sports gambling at their discretion. States are now enacting legislation on topics that are frequently prohibited by federal law or subject to strict regulation by Congress under the commerce clause, which is starting to become a pattern, as in the areas of medical marijuana (*Gonzales v. Raich*)⁴¹, partial-birth abortion (*Gonzales v. Carhart*)⁴², gun possession (*United States v. Lopez*)⁴³, federal police powers (*United States v. Morrison*)⁴⁴, which struck down portions of the Violence Against Women Act), or agriculture (*Wickard v. Filburn*)⁴⁵.

Recent federalism in US

The balance between state and federal power has fluctuated in the 21st century. In a 2009 Rockefeller Institute report by Martha Derthick, she argues that "the normal tendency of federal-state relations in the United States is toward centralisation".

Presidency of George W. Bush

Regarding military and emergency action, Derthick said that "conventional federalism has survived the test of an aggressive presidency" and that "in retrospect, more centralising than militarising" was the Bush administration's policy from 2001 to 2009.⁴⁶ "In a 2007 paper in *Publius: The Journal of Federalism*"⁴⁷, Sidney Milkis and Jesse Rhodes argue that "The Republican Party has traditionally stood for 'limited government', but Bush's principal legacy for federalism is centralisation of power in the federal

⁴¹ 545 U.S. 1 (2005).

⁴² 550 U.S. 124 (2007).

⁴³ 514 U.S. 549 (1995).

⁴⁴ 529 U.S. 598 (2000).

⁴⁵ 317 U.S. 111 (1942).

⁴⁶ "Bush, Federalism, and Emergency Management", *Rockefeller Institute of Government*. Retrieved February 6, 2021.

⁴⁷ [https://en.wikipedia.org/wiki/Publius_\(journal\)](https://en.wikipedia.org/wiki/Publius_(journal)) (as accessed on Date 20-09-2023).

government and the executive branch.⁴⁸ "According to Thomas L. Gais on federalism in the Obama Administration, "effort to impose central control is nothing new: GWB Administration did much the same".⁴⁹

Presidency of Barack Obama

Under President Barack Obama (2009–2017), the federal government expanded its authority, while the state governments' authority also expanded to some degree. In 2011, scholar Gillian Metzger discussed that "national developments entail some preemption and new state burdens. But each also has brought with it significant regulatory and financial opportunities for the states". Metzger points out that the states had increased regulatory responsibilities under Dodd-Frank, increased responsibilities in implementing and operating federal health care legislation under the Affordable Care Act, and received additional stimulus funding.⁵⁰ Obama took office following the 2007–2008 financial crash, which called for him to take action to stabilise the economy. In 2009, he subsequently introduced "The American Recovery and Reinvestment Act (ARRA)". This act placed a federal focus on providing stabilising state and local budgets, financial bailouts, and ensuring jobs were secure.⁵¹ Many conservatives opposed ARRA because they perceived it as a major use of federal power; nonetheless, this was accomplished through a coalition in which state governments were highly involved and closely collaborated on the legislation's drafting and execution.⁵² In 2010, Rockefeller Institute scholar Thomas L. Gais wrote that the Obama

⁴⁸ Milkis, Sidney M.; Rhodes, Jesse H. (January 1, 2007), "George W. Bush, the Party System, and American Federalism", *Publius: The Journal of Federalism*. 37 (3): 478–503. 10.1093/publius/pjm012. ISSN 0048-5950.

⁴⁹ Federalism during the Obama Administration", *Rockefeller Institute of Government*. Retrieved February 6, 2021.

⁵⁰ Metzger, Gillian (January 1, 2011), "Federalism Under Obama". *Wm. & Mary L. Rev.* 53: 567.

⁵¹ "American Recovery and Reinvestment Act 2009". *Congress Gov. Congress. Gov.* Retrieved December 14, 2020. "Agile Federalism in Times of Crisis", *National Academy of Public Administration*. Retrieved February 6, 2021.

⁵² Agile Federalism in Times of Crisis", *National Academy of Public Administration*. Retrieved February 6, 2021.

administration had the highest percentage of state employees to federal employees in state history, relied more on state action, and engaged with the states more than any other administration since the 1960s. This was called "assertive federalism" by Gais.⁵³ Barack Obama's administration's cannabis policy eased federal enforcement and gave states more discretion over whether or not marijuana is legal.⁵⁴

Presidency of Donald Trump

Donald Trump's administration (2017–2021) implemented more complex federalism. In the past, the federal government has dealt with national security issues including natural catastrophes and viral epidemics; but, in 2020, amid the coronavirus pandemic, the president delayed taking action and meddled with federal agencies.⁵⁵ This would suggest that Trump aimed to weaken the federal government's role while also trying to challenge state authority or exercise presidential powers that the Constitution did not grant.⁵⁶ During the Trump administration, punitive federalism—the federal government's penalisation of states and localities—became problematic.⁵⁷ Goelzhauser and Konisky believe that the Trump administration's EPA meddling in California in 2018 and its rejection of catastrophe aid to Puerto Rico are the best examples of punitive

⁵³ *Ibid.* at 53.

⁵⁴ "Sessions terminates US policy that let legal pot flourish". *AP NEWS*. January 4, 2018. Retrieved February 6, 2021. Bulman-Pozen, Jessica; Metzger, Gillian E. (July 1, 2016). "The President and the States: Patterns of Contestation and Collaboration under Obama". *Publius: The Journal of Federalism*. 46 (3): 308–336. doi:10.1093/publius/pjw008.

⁵⁵ amey, Gavin (April 24, 2020). "Donald Trump: a political determinant of covid-19". PMID 32332028. S2CID 216129911. Retrieved December 14, 2020. "Pandemic Lockdown Battles Offer Glimpses of Political Conflicts to Come". *Reason.com*. December 11, 2020. Retrieved February 6, 2021.

⁵⁶ Selin, Jennifer. "Trump versus the states: What federalism means for the coronavirus response". *The Conversation*. Retrieved February 6, 2021. Goelzhauser, Greg; Konisky, David M. (July 1, 2020). "The State of American Federalism 2019–2020: Polarized and Punitive Intergovernmental Relations". *Publius: The Journal of Federalism*. 50 (3): 311–343. doi:10.1093/publius/pjaa021. ISSN 0048-5950. PMC 7454864.

⁵⁷ *Ibid.* at 59.

federalism. They further assert that "the pandemic has brought on, in addition to immense human suffering, the federalism event of the century".⁵⁸ Donald Trump's attitude towards the Black lives matters, marches was another point of contention. He adopted a more combative posture, sending federal troops and agents to the demonstrations in defiance of opposition from many states and criticism that the action may be unlawful.⁵⁹ In opinion of Thompson, Wong, & Rabe, "Trump [was] particularly aggressive in the use of executive power, or the 'administrative presidency', to pursue his goals, including executive orders and regulatory changes". Yet, "the forces of federalism, especially state attorneys general, governors, and legislatures, have often undercut Trump's executive initiatives and reduced their impact".

Joe Biden's Presidency

Federalism under President Joe Biden administration is a topic of recent discussion. The federal government's tools for fighting the COVID-19 epidemic and advancing public health are two examples of federalism topics.⁶⁰

Journey of Federalism in India

The Indian Constitution's legal perspective has generally been centralised. Initially, under Pt. Nehru, the courts were resolutely moderate. Cases involving the protection of basic rights were given greater weight than those involving the insurance of governmental privileges.⁶¹ In any case, during regular non-crisis periods, the states

⁵⁸ *Ibid.* at 60.

⁵⁹ "Were Portland Protesters 'Kidnapped' by Federal Officers in Unmarked Vans?". *Snopes.com*. July 22, 2020. Retrieved February 6, 2021. [^](#) "Federal agents, local streets: A 'red flag' in Oregon". *AP NEWS*. July 20, 2020. Retrieved February 6, 2021.

⁶⁰ "Federalism 2021: COVID-19 Mandates | The Rose Institute of State and Local Government". *roseinstitute.org*. Retrieved August 29, 2021. [^](#) "Why President Biden can't make states vaccinate teachers — or anyone else". *NBC News*. Retrieved August 29, 2021.

⁶¹ *Government of India (Republic)*, *Report of the States Reorganization Commission*, chair Fazal Ali (New Delhi: Ministry of Home Affairs, 1955), 203-4. Also see Ajay Kr. Singh, "Federalism and State Formation: An Appraisal of Indian Practice",

must naturally adapt to the direction of the center under express superseding powers of the Union in particular matters, as evidenced by the fact that fewer state liberty cases exist. This underscores the reality that union-state relations have been primarily guided by the essence of "unitary" federalism.⁶² The courts have resolved the conflicting cases of the state governments and Parliament and established the norms of agreements relating to union-state relations.⁶³ In any event, while the Court has tried to take into account the circumstances of the states within the intricate system of power entwinement in the Union-State, a number of incidents have confused and created contradictory patterns. By resolving these conflicts, the courts have created some key guidelines for resolving conflicts between states and creating relations between them.⁶⁴

India has gradually moved from partially unitary to becoming competitively federal.⁶⁵ Nonetheless, India is altogether different from the federalism of the US. It is in no way, shape or form sure that India, which has developed partial unitary, can continue a lot farther as stringently federation but come out as quasi-federal.⁶⁶ The

in *Indian Federalism in the New Millennium*, ed. B.D. Dua and M.P. Singh, 85–108 (New Delhi: Manohar, 2003); and M.P. Singh, "Borderless Internal Federal Space? Reorganisation of States in India", *India Review* 6, no. 4 (2007): 233–50.

⁶² *Ibid.* at 65.

⁶³ *S.R. Bommai and Others Etc. vs Union of India And Others Etc.* on 11 March, 1994.

⁶⁴ *Kuldip Nayar vs Union of India & Ors* on 22 August, 2006.

⁶⁵ *K. Lakshminarayanan vs Union of India* on 6 December, 2018.

⁶⁶ For more background on Indian federalism, see Akhtar Majeed, "Republic of India", in *Constitutional Origins, Structure, and Change in Federal Countries*, ed. John Kincaid and G. Alan Tarr, 180–207 (Montreal and Kingston: McGill-Queen's University Press, 2005); Govinda Rao, "Republic of India", in *The Practice of Fiscal Federalism: Comparative Perspectives*, ed. Anwar Shah, 151–77 (Montreal and Kingston: McGill-Queen's University Press, 2007); Amitabh Mattoo and Happymon Jacob, "Republic of India", in *Foreign Relations in Federal Countries*, ed. Hans Michelmann, 168–87 (Montreal and Kingston: McGill-Queen's University Press, 2009); George Mathew and Rakesh Hooja, "Republic of India", in *Local Government and Metropolitan Regions in Federal Systems*, ed. Nico Steytler, 166–99 (Montreal and Kingston: McGill-Queen's University Press, 2009); Sandeep Shastri, "Republic of India: Emergence of a Competitive Party System and Civil-Society Space", in *Political Parties and Civil Society in Federal*

most significant factor is that India has adopted the liberal concept of federalism in place of the Westminster parliamentary system used in the UK.⁶⁷ The most likely is the demand that their federations ought to some way or another be made viable with the current parliamentary practice of government.⁶⁸ On the grounds that both the old style type of parliamentary government and the traditional idea of federalism started quite a while in the past, 18th century, it very well might be an ideal opportunity to think about something in present times.

India's economy performed among the most abhorrently poorly in Asia from the time it gained independence in 1947 till the introduction of financial reforms in 1991. India's rulers, dubious of free enterprise and trading, supported state autonomy. Despite a poor starting point, the Indian economy grew at a sluggish 3.5 percent annual average growth rate in the first thirty years following independence (1947–77). The average economic growth in India in 1964 was around three-fourths that of the average South Korean economy. In 1984, the average South Korean was far more ostentatious than the average Indian. When emergencies finally balanced out in 1991, India finally departed due to monetary adjustments. The economy quickly blasted. Over the course of the following 13 years, India's development programme extended. Another telecom strategy prompted India's cell phone upheaval. India at present has more than 1.2 billion cell phone supporters, the second biggest number on the planet.⁶⁹ Businesses have

Countries, ed. Klaus Detterbeck, Wolfgang Renzsch, and John Kincaid, 121–46 (Don Mills, ON: Oxford University Press, 2015); M.P. Singh and Rekha Saxena, “Intergovernmental Relations in India: From Centralisation to Decentralisation”, in *Intergovernmental Relations in Federal Systems: Comparative Structures and Dynamics*, ed. Johanne Poirier, Cheryl Saunders, and John Kincaid, 239–71 (Don Mills, ON: Oxford University Press, 2015).

⁶⁷ *Ibid.* at 68.

⁶⁸ *Ibid.* at 68.

⁶⁹ [https://www.livemint.com/technology/gadgets/india-has-over-1-2-bn-mobile-phone-users-i-b-ministry-11668610623295.html#:~:text=India%20also%20has%20over%20600%20million%20smartphone%20users&text=NEW%20DELHI%20%3A%20Ministry%20of%20Information,600%20million%20smart%20phone%20users.\(as%20accessed%20on%20Dt.%2014-10-2023\).](https://www.livemint.com/technology/gadgets/india-has-over-1-2-bn-mobile-phone-users-i-b-ministry-11668610623295.html#:~:text=India%20also%20has%20over%20600%20million%20smartphone%20users&text=NEW%20DELHI%20%3A%20Ministry%20of%20Information,600%20million%20smart%20phone%20users.(as%20accessed%20on%20Dt.%2014-10-2023).)

revolutionised Indian telephony and avionics and achieved significant strides in banking.⁷⁰

Approximately between 1991 and 2011, the Indian GDP stabilised at 6.7 percent annually.⁷¹ Even nevertheless, the economy sustained to grow, supported by stable global situations and changes that dispersed before to 2004; ultimately, the lack of new developments discovered India.⁷² Development cut from a peak of 10.3 % in 2010 to 5.1 % in 2012, according to the World Bank.⁷³ By the end of 2013, the rupee had fallen to significant lows vs the US dollar and the financial exchange was collapsing, making India's economy one of the "delicate five" in the world.⁷⁴

With the inauguration of Narendra Modi as state chief in 2014—the first time a single party has had a larger portion of the government—hopes were aroused that India would firmly return to the path of financial reform.⁷⁵ Using catchphrases like "least government, most extreme administration", "honorary pathway, not formality", and "the public authority should not be being good to go", Modi portrayed his vision for the economy on the battlefield. In addition, Modi's track record as the charismatic and business-friendly boss clergyman (roughly equivalent to the head of state) of the industrialised western province of Gujarat (2001–14) encouraged many financiers and

⁷⁰ Rekha Saxena, *Situating Federalism: Mechanisms of Intergovernmental Relations in Canada and India* (New Delhi: Manohar, 2006).

⁷¹ https://en.wikipedia.org/wiki/Economy_of_India (as accessed on Dt. 14-10-2023).

⁷² Commission on Centre-State Relations, *Report*, Part I (Nasik: Government of India Press, 1988), ch. 5.; Commission on Centre-State Relations, *Report: Constitutional Governance and the Management of Centre-State Relations*, chair Justice M.M. Punchhi, Vol. 2 (New Delhi: Government of India Press, 2010), paras 7.4.01–02.

⁷³ <https://www.worldbank.org/en/news/press-release/2013/07/23/improve-lives-world-poor-world-bank-group-delivers-nearly-53-billion-support-developing-countries-fy13> (as accessed on Dt. 14-10-2023).

⁷⁴ *Census of India*, (State Census) data 2011; *Census of India*.

⁷⁵ <https://www.thehindu.com/opinion/lead/the-larger-project-of-subverting-the-idea-of-india/article67292595.com> (as accessed on Date 12-10-2023).

observers to expect the kind of significant reforms that had eluded India over the previous decade.⁷⁶

Up until this point, the BJP government's record has been blended.⁷⁷ It has given a valiant effort to carry out an honorary pathway for financial backers, with the top state leader himself going about as India's central pitchman. Unfamiliar speculation standards have been facilitated in, among different regions, protection and food handling. Unknown direct interest in India increased 33% to \$64 billion between May 2014 and December 2015, as compared to \$48 billion in the 20 months before to Modi's victory. A few well-known companies, like as Foxconn in Taiwan and Posco in South Korea, have pledged to invest billions of dollars in India. Prominent U.S. financial supporters include Uber, Prophet, General Electric, and General Engines.

Notwithstanding having an agreeable larger part in the lower place of the parliament, the current government had never really switched the past government's most horrendously terrible regulations, similar to a disliked retroactive expense. Likewise in force is an administration order convincing organisations to channel a portion of their benefits toward social targets like decreasing youngster mortality and fighting Guides. Actually, government officials utilise the arrangement to "support" financial specialists to subsidise their number one boondoggles. Instead of eliminating the previous administration's infamously flawed national labour guarantee programme, which wasted billions of dollars, the current government has increased funding to an all-time high. Notwithstanding his broad discretionary triumph a long time back, Modi faces enormous difficulties in pushing a change plan.

Notwithstanding India's amazing financial additions throughout the course of recent decades, in numerous ways the nation's scholarly and political environment stay threatening to changes. In 2019, BJP

⁷⁶ *Govt. of NCT of Delhi vs Union of India* on 4 July, 2018.

⁷⁷ <https://www.thehindu.com/news/modi-regimes-record-mixed-us-expert-tells-lawmakers/article8365233.ece> (as accessed on 12-10-2023).

under Modi has lost two significant states races since February of the year before.⁷⁸ In the two cases, the triumphant provincial party blamed PM for thinking often more about affluent financial specialists than about the poor people.⁷⁹ A large part of the media also buys into the (off base) view that reassuring business and speculation signals insensitivity toward poor people. Essentially, beyond a small bunch of observers, there is no conspicuous voting public in India with the expectation of federal exchange.⁸⁰

Economical study of any variable will no doubt infer results on any particular discipline. In current case on the basis of the above-mentioned analysis, the concluding remarks are given in this paragraph regarding Indian Federalism and its changing scenario over the past 7-8 decades. For this large democratic nation, adopting a federal style of government with strong central inclinations appears to be a workable alternative. All desires for autonomy are probably complementing forces rather than dividing ones, and they would cause the Indian federal union to reintegrate rather than break apart. Therefore, practically speaking, what is required is a policy and ethos of mutual trust, friendliness, and tolerance from the union government to the states. India's federal financial connections have an evolutionary past in that historical coincidences, administrative expediency, and political pressures have all contributed to their development. The British Empire had no real intention of giving the provinces any real financial sovereignty. The GOI Act (1935) only began to provide the provinces some degree of legislative and budgetary autonomy during the latter years of British rule. However, the real goal behind this concession was to maintain British authority in India. However, the foundation for the formulation and envisioning of federal financial relations under the Indian Constitution was established by the GOI Act of 1935. This all contends that India is moving towards competitive federalism where states are becoming autonomous and self-reliant in governance. This

⁷⁸ <https://www.theguardian.com/world/2019/dec/24/india-jharkhand-election-modi-bjp-loses-citizenship-protests> (as accessed on Date 12-10-2023).

⁷⁹ *Ibid.*, 76.

⁸⁰ *Ibid.*, 76.

makes the states to become more efficient from each other because the state which shows better development, smarter policies and consequently, gives greater results then only, that very state will be more glaring for inviting investments from public and private purse. This will help to make a prosperous democracy since there will be a ease to get benefited within their own business spheres and developed from others. But there are certain challenges faced by Indian Federalism which are as follows:

1. The debate over rich versus poor enters the picture when looking at the states of Punjab and Bihar/Odisha/Jharkhand, which reduces their ability to compete. Since Punjab is well-off, rich and a more literate State, it will always win against the latter States. This is a challenge.
2. Variation of extent of industries and the index of industrialisation of different states is different in rate. This is again a big problem in facilitation competition in federalism.
3. Human Rights Violation Index and Crime Ratio are different in different states. This makes a big hindrance in development of competition amongst states. Also, the ratio of backwardness is also to be taken into account.
4. The concept of Smart City is also a challenge since some cities in some states are named as Smart City and others stand discriminated.

The above points are concrete arguments and do stand in the way of shift from cooperative to competitive federalism.

Conclusion

Federalism⁸¹ is a part of basic structure of Indian Constitution and it cannot be amended. Is it accurate, though, to say that competitive and cooperative federalism are incompatible with one another?

⁸¹ *Kesavananda Bharati Sripadagharu and Ors. v. State of Kerala and Anr.* (1973) 4 SCC 225.

Federalism that is both competitive and cooperative is a two-sided coin. Competitive federalism deals with interplay among two or more states in matters of trade, investment and commerce. However, competition by itself will not provide the best outcomes; cooperation and competition together will bring about progress. The center should work with the states to foster competitiveness by granting them the necessary latitude in formulating policy and by providing the necessary funding for them to focus on their own objectives. The states' capacity should also be taken into consideration. Collaboration lays the foundation for competition to start. Cooperative and competitive federalism must coexist in harmony. The Union Government and Private investors are more attracted to those states that are more developed in administration and activities based upon previously allocated funds is a sign of competitive federalism. Policy of "NO WORK NO MONEY, MORE WORK MORE MONEY" is prominent. They both are not mutually exclusive with a same fundamental principle viz., "Progress of the nation as a whole".

MAQASID AL-SHARI'AH: A DIVINE SHIELD OF ISLAMIC POLITY

*Dr. Ali Muhammad Bhat**

Abstract

*Shari'ah is the divine law for human beings to regulate their lives according to the will of God. In academia, it became a central focus for a large number of Muslim and non-Muslim scholars. Some considered it revealed law while others considered it a juristic extraction of law known worldwide as jurisprudence. But it is obvious that it is divine in nature as elaborated by Muslim scholarship as per need and requirement for human welfare. In the contemporary era under the influence of secular teachings, the Euro-centric scholarship cogitates it as a private affair but relevant to some issues of Muslim life called personal law affairs and rituals but, Muslim scholarship considered standardised law related to all affairs of life from polity to justice so as to achieve nearness of God (taqwa). It is noteworthy that, though Ghaṣṣali codified Maqasid al-Shari'ah within five objectives, other scholars included other necessary aspects which govern all affairs of human life, particularly politics so that no one will be ill-treated. They uphold that it is a human welfare methodology that necessarily, safeguards human interests at local and international levels and makes it incumbent to regulate Muslim life through inclusive and exclusive methods on a priority basis.***

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** Purpose: This study is related to the most significant aspect of Islam i.e., Shari'ah which is meant to govern human life, but within the theory of Maqasid Shari'ah peripheries are discussed and the core is left unattended. In this paper, an attempt is made to discuss the real purpose of Shari'ah as a governing body known as a political system.

Methodology: Keeping in view the significance of the topic in the contemporary era, the study aims to apply an analytical approach. The aim is to analyse and discuss critically all aspects and literature in relation to the topic.

Objective: The objective behind this research is to explore the central aspect of Shari'ah so that the real purpose of Shari'ah will be attained.

Key-words: *Shari'ah, Maqasid al-Shari'ah, Human welfare, Politics, Religion.*

Introduction

Maqasid *Shari'ah* is the way to understand the basic objectives of life in a more lucid way so that people may understand the purpose of life. It is very significant to know *Shari'ah* is political in nature and governs human life. Politics have higher objectives to implement justice and fascinate equality among fellow human beings. Scholars of Islamic law have a consensus that *Maqasid al-Shari'ah* has higher objectives being part of the political system. But they have a difference of opinion on how to define and identify those higher objectives. Maqasid scholarship works to implement God's law so that every individual gets equal opportunities according to their capacities. Qur'an helps to adopt a straight path so that basic objectives of life may be attained without any unjustified way possible through a political agency based on the principles of divinity. According to Quran, it is God Who guides us in right direction. "*God points out the right path*". (Qur'an: 16:9).

The objectives of *Shari'ah* are to safeguard human interests through divine command. In Islam *Shari'ah* has prime importance to regulate all affairs of life. All the scholars unanimously agree that *Shari'ah* as a term symbolises laws and regulations to govern human life.¹ Its provisions are a manifestation of God's will, put forth in the Qur'an and explained further by Prophet Muhammad (SAW) and later on experts of the law. Such laws are derived with the purpose to standardise justice as:

"O! You who have believed, be persistently standing firm in justice, witnesses for God, even if it be against yourselves or parents and relatives. Whether one is rich or poor, God is more worthy of both. So, follow not [personal] inclination, lest you not be just. And if you distort or refuse [to give it], then indeed God is ever, of what you do, Aware".
(Surah Nisa' 4: 135).

¹ Timothy P. Daniels, *Sharia Dynamics Islamic Law and Socio-political Processes*, New York: Palgrave Macmillan, 2017, p. xiii.

Shari'ah being political in nature, guides Muslims to achieve the purpose of life. Islamic political system serves as a basic source of *Maqasid al-Shari'ah* and provides highly advanced principles and standards of Islamic law which cannot be ignored in present circumstances when the Muslim community is facing challenges of very high magnitude and intensity both in Muslim majority and in Muslim minority countries. In order to achieve the objectives of human development, equality and justice in all spheres of life, the execution of *Maqasid al-Shari'ah* is indispensable. *Maqasid al-Shari'ah* is preordained for human welfare at large and Muslims in particular within the framework of the primary purposes of faith and divine guidance.²

In contemporary times apolitical *Maqasid al-Shari'ah* is upheld by scholars, which is a very intricate, complex and rationally perplexing problem, while *Shari'ah* backed by sound political philosophy is a top priority and serves the basic cause of Islam. Scholars came up with the thought that a sound *Shari'ah-oriented* political system serves the welfare of human society and prevents it from wrong and oppressive actions as the purpose of Islam. *Maqasid* principles are meant for safeguarding religion, life, offspring, wealth and, intelligence. This security is not time-bound but intended for all time, universal, and in terms of *Fiqhi* terminology called *daf al-mafasid and jalb al masaleh* which aims to guide human beings and to make them successful at both individual and collective levels. The major objective of *Shari'ah* is to safeguard humanity from great failures in this world and in the hereafter. Methodology related to *Maqasid al-Shari'ah* is most important, so that life continues to achieve divine *Maqasid* and to easily qualify the divine test which humans face up to the day of resurrection (*Yawm ul Qiyamah*). It is imperative to understand the aim of *Shari'ah* and the methodology to achieve the purpose of life, which God vehemently discussed in the Qur'an as:

² Jasser Auda, *Maqasid al-Shari'ah* as Philosophy of Islamic Law: A Systems Approach, International Institute of Islamic Thought, London and Washington, 2007, p.16; Ishak, M.S.I. and Asni, F., "The role of *Maqasid al-Shari'ah* in applying fiqh muamalat into modern Islamic banking in Malaysia", *Journal of Islamic Accounting and Business Research*, 2020, Vol. 11, No. 9, 2137-54.

I created the jinn and humankind only that they might worship Me". (Surah Dhāriyāt: 56).³

Shari'ah, an Arabic term that has numerous meanings, is a principal symbol and a concern of cultural models that fashioned the cultural representations for Muslims across the globe. In a dogmatic sense, *Maqasid* represents the Islamic provisions and ethical guidelines, all-embracing in the *Qur'an* and validated and demonstrated by the daily acts of the Prophet Muhammad (SAW). From a symbolic point of view, it also means, "the way to asylum", because it is vital for existence and a beacon light in unfavourable conditions.⁴ Moreover, it is also declared, an oasis in a desert environment. *Shari'ah* has existence, value and acts that serve as a sanctuary, necessary for survival and accomplishment in the life of Muslims. Muslims in general consider *Shari'ah* as the true representative of their daily life affairs and consider it as a shield to protect their religion, life and property.⁵

Shari'ah has evolved from its basic sources, which legitimately uphold the main position in Islamic polity, being a legitimate body of rules. *Shari'ah*⁶ is a term that suggests the strong sentiments of its followers as the main source of regulating their life in all circumstances. Westerners and non-Muslim scholars consider it, a very tough and strict medieval code of life that breeds hatred in the hearts of others. For all Muslims, *Shari'ah* represents a system that implements and stimulates human welfare in the form of justice and goodness.

³ Abdullah Yusuf Ali, *The Meaning of the Holy Qur'an*, London: Islamic Foundation, 2016.

⁴ Wael Hallaq, *The Origins and Evolution of Islamic Law*, Cambridge: Cambridge University Press, 2005, p. 32; Yasin Dutton, *The Origins of Islamic Law: The Qur'an, the Muwatta' and Madinan 'Amal*, Curzon Press, 1999.

⁵ Lewis, B., *What Went Wrong? Western Impact and Middle Eastern Response*, Oxford: Oxford University Press, 2002, 106.

⁶ *Ibid.*, 14.

Historically speaking *Shari'ah* has a well-established foundation, basics and growth spread from the 7th century to the contemporary era.⁷ Historical accounts about *Shari'ah* expound that legal rules were often within the framework of culture and institutional standards and its principles and guidelines are well established to fulfil needs at all times.⁸ For Muslims, *Shari'ah* serves as an ideology and a powerful slogan, across the globe, demanding the implementation of *Sharia'ah* with the cry 'Islam is the solution'.⁹ The outstanding importance of *Shari'ah* lies in its divine nature and its principles described in the Islamic primary sources and Muslims undoubtedly consider it as divine law¹⁰, authorised by God to demonstrate His will through it and was interpreted variously by scholars according to the circumstances. Liberals, radicals and conservatives hold varying opinions just as modernists, traditionalists and fundamentalists hold different views of *Shari'ah*, being advocates of diverse schools of Islamic scholarship.¹¹

According to Professor Irshad Abdal-Haqq; "*Shari'ah*, literally means the path to be followed and to mean the path upon which the believer has to stride. Generally, *Shari'ah* means the road to welfare and growth but the technical application of the term as a reference to the law of Islam is traced directly to the Qur'an, wherein the adherents of Islam, are admonished by God to follow undoubtedly *Shari'ah*. "Then we put thee on the (right) Way of religion so follow thou that

⁷ Joseph Schacht, *An Introduction to Islamic Law*, Oxford: Clarendon Press, 1993, p. 9; N. J. Coulson, *A History of Islamic Law*, Edinburgh: Edinburgh University Press, 1997, pp. 103-104.

⁸ George Makdisi, *The Rise of Colleges: Institutions of Learning in Islam and the West*, Edinburgh: Edinburgh University Press, 1981, pp. 36-39.

⁹ Said al-Ashmawy, *al-Sharia al-Islamiyya wa-l-qanun al-misri*, Cairo: Maktabat Madbuli al Saghir, 1966, p. 11.

¹⁰ Otto, Jan Michiel, *Sharia and National Law in Muslim Countries: Tensions and Opportunities for Dutch and EU Foreign Policy*, Amsterdam University Press, 2008, p. 11; Jan Michel Otto, *Sharia Incorporated A Comparative Overview of the Legal Systems of Twelve Muslim Countries in Past and Present*, Leiden: Leiden University Press 2010, p. 43.

¹¹ Mansoor Moaddel and Kamran Talattof, *Modernist And Fundamentalist Debates In Islam*, Palgrave Macmillan, 2002, pp. 3-7.

(*Way*) and follow not the desires of those who know not”, as mentioned in Surah 45, verse 18 of the Holy Qur’an.¹²

According to Ahmadi, “The sustainable development from an Islamic perspective is understanding the role of human beings based on responsibility and to care for nature, with a purpose mainly in safeguarding the benefits to all spectrum including the animal kingdom and the environment”.¹³ So *Maqasid al-Shari’ah* is all-inclusive in nature and deals with issues that are politico-economic, social and personal in significance.

Ibrahim et al. behold, that *Shari’ah*’ basic aim is the development and welfare or well-being of humans as well as the natural environment for sustainable development through integrating social and economic development to work for human welfare. They further explained social development means discharge of human rights by providing fundamental requirements of life like food, health care and access to education. Moreover, economic progress correctly means that all people may earn for themselves and for fulfilling the needs of their families.¹⁴ The prime significance of *Maqasid al-Shari’ah* is to protect the divine scheme, attitude and nature of life. All secular philosophies, whether social, economic, or political resulted in human suffering and massacre at a larger scale.

Maqasid al-Shari’ah is meant to restrict humans from all unethical activities and promote moral values for the proper disposal of human growth on equal grounds. Islamic polity is responsible for the application of Islamic principles. It is among the top priorities of the *Shari’ah* to appoint uncompromising judges who cannot succumb to any external influence. *Shari’ah* decisions are executed by judges, having varying responsibilities from the interpretation of *Shari’ah* to execute

¹² Irshad Abdal-Haqq, Understanding Islamic Law: From Classical to Contemporary, Chapter 1, Islamic Law: An Overview of its Origin and Elements. Alta Mira Press, 2006, p. 4.

¹³ Ahmadi, M., Sustainable Development – Islamic Perspectives, 2016, www.ijaur.ir. Retrieved on 8/09/2020.

¹⁴ Ibrahim Abiodun Oladapo, Asmak Ab Rahman, *Maqasid Shari’ah: The Drive for an Inclusive Human Development Policy*, *Journal Shari’ah*, 2016, 24/2, pp. 330-337.

their decisions and depending on the nature of the problem for a long-lasting solution.

According to Ibn Nujaym, "Islam provides principles as guidelines to Muslims for regulating their life and in their decision making to implement sustainable development. Principles governing human life concentrate on protecting human interests from any harm under the principle of "any wrong is to be undone".¹⁵

Generally, Islamic law's basic objective is to provide relief and justice to humans at large. The Qur'an has a clear message for justice. No blood relation should stand between justice and the one who is the witness of an issue and strongly condemns those involved in any kind of guilt, injustice and oppression. The *Maqasid al-Shari'ah* is the integration of justice with state and human life¹⁶ so that equality before law will flourish as a model of Islamic state. Evidently, impartiality or justice means equality in the ability to associate things together as in an intellectual sense, it might mean equality before the law as the Qur'an says;

"The Believers are indeed brothers, so make peace between your two brothers and be mindful of God, so that you may be given mercy".
(Surah al-Hujurat 49:10).

Isfahani tried to explain the basic purpose of the *Vicegerency* of God before implementing it in any sphere of life, particularly in the social sphere. He is of the view that one must be able to exercise authority over oneself first before implementing it in society as:

"He who cannot rule over his own soul is not suitable to rule over others. For this reason, God Most High rebukes unworthy men who wish to rule over other people, commanding good and prohibiting evil without having reformed themselves. He declares: Do you command others

¹⁵ Ibn Nujaym, Z.B, *Al-Asybah wa al-Nazair*, Dar al-Kutub al-Ilmiyyah, Beirut, 1993, p. 55.

¹⁶ Ibrahim and Ab. Rahman, 2016, *Op. cit.*, pp. 287-302.

to be righteous and forget yourself while you recite the Book?”¹⁷

More than two hundred verses of the Qur'an are directly related to people involved in injustice and cruelty. Hashim Kamali says that the Qur'an holds more than 350 legal verses of such nature¹⁸ which openly speak about the legal framework of *Shari'ah*. Abdullah Ahmad An-Na'im declared that 500 to 600 Qur'anic verses focus on the legal aspect of the Qur'an to uphold the task of justice.¹⁹

He also advocated that “the *Ijtihad* should be applied even to matters governed by clear and categorical texts of the Qur'an”.²⁰

The *Maqasid al-Shari'ah* contains all characteristics of human existence in a developmental way with distinctive prominence on the general well-being of all individuals. In the contemporary era imparting education is completely backed by modern political ideology. Though they consider education as human development indicator, but it is a vague statement because modern day educational system lacks moral aspect which is basic factor of Maqasid-based education. So Lack of moral and ethical teachings becomes a cause of every kind of corruption. If education is supported by an immoral political system it cannot rightly guide the human mind to reality. So the core concern of *Maqasid al-Shari'ah* is to organise society and its educational system with ethical values so that every human being accomplishes his responsibility at individual and collective levels. In general, human development economics plays an important role, if it is imparted with basic human objectives to serve the community. But economics is intertwined with state politics and has always had a stronghold on human life. So in *Maqasid al-Shari'ah*, politics must be given higher

¹⁷ Raghīb al-Isfahani, *al-Dhari'ah ila Makarim al-Shari'ah*, Cairo: Dār al-Wafa, 1987, p. 92.

¹⁸ Mohammad Hashim Kamali, *Principles of Islamic Jurisprudence*, 3rd ed., Cambridge: Islamic Texts Society, 2003, p. 26.

¹⁹ Abdullah Ahmad An-Na'im, *Toward an Islamic Reformation: Civil Liberties, Human Rights and International Law* (Syracuse: Syracuse University Press, 1990, p. 20.

²⁰ An-Na'im, Abdullah, et al., *Human rights and religious values: an uneasy relationship*, Zed Books, 1995, p. 239.

priority. From an Islamic perspective, sustainable development fulfils the needs of people holistically and without compromising the privileges of future generations, because it takes into consideration both the material and spiritual needs of human beings. It is indispensable that economic growth must stabilise amid worldly life. In this regard Umer Chapra says: "Satisfaction of the spiritual needs requires moral development and that satisfaction of the material needs requires the development of all human and material resources in a just manner in which the needs of all human beings are adequately fulfilled".²¹

Maqasid al-Shari'ah was always linked with state power during the classical period of Muslim history. The first two rulers of the Rashidun period directed state officials to work for the upbringing of human society. But later on, the link between *Shari'ah* and governance broke down when the rule changed from Caliphate to Kingship. In such circumstance a dichotomy was created between politics and *Shari'ah* and few rituals and worldly life were given priority without caring about *Shari'ah* governance system which acts as divine protection. While analysing historical sources, the theory of *Maqasid* evolved later as a field of interdisciplinary study. Scholars who made earlier efforts on the theory of *Maqasid al-Shari'ah* are Hakim Tirmidhi, Ali b. Ibrahim al-Qummi, Ali ibn Babawayh Qummi, Imam al-Haramayn al-Juwayni (478H) and later on Imam Ghazali developed it from a legal perspective. His theory of *Maqasid al-Shari'ah* was earlier divided into three basic levels of *maslahah* ranging from essentials (*daruriyyah*), needs (*hajiyyah*) and refinements (*tahsiniiyyah*).²² *Maqasid al-Shari'ah* is meant for the overall protection of religion, life and property. Scholars hold variant opinions about the objectives of *Shari'ah* which Imam Ghazali categorised into five basic objectives of *Shari'ah*. Ibn Taimiyah is of the opinion that *Maqasid* must not be limited to five only but need to be elaborated and other significant aspects like rights of neighbours, rights of Muslims, justice and relation between Muslims. Ibn Ashur held the opinion that

²¹ Chapra, M.U., *Islam and Economic Development*, The International Institute of Islamic Thought and Islamabad: Islamic Research Institute, 1993, p. 6.

²² Muhammad Al-Ghazali, *Ihya' 'Ulum al-Din*, Cairo: al-Maktabah al-Tijariyyah al-Kubra, 1937, p. 237.

instead of being limited to five *daruriyyat* (needs) of society at large to be integrated for the larger benefit of humans, while Audah held that higher values like civility, freedom and human rights need to be incorporated into *Maqasid* theory.²³

Imam Abu Hamid al-Ghazali has stated that *Shari'ah* as purpose is dependent on five objectives: to preserve religion, soul, offspring, wealth and mind. So, everything that includes preserving these five principles is considered a *maslaha*. And everything that resulted in the failure of these principles harms that should be fought and turned into interest. The prohibition of failing or restraining these five principles has always been included in *Shari'ah*, as it works for the interest of humankind. Therefore, Muslims believe that the purpose of the provisions of the legislation is to keep these five essentials. These essentials are indispensable in the interests of the religion and the world, so if they are lost so are the interests of the world. The world would be of corruption and all human destiny in the afterlife to manifest loss. The reason why these five essentials are called objectives is that all of the *Shari'ah* legal rulings are emerged and based upon them.²⁴

The interpretation of *Maqasid* is not final, it varies in its application and implementation as per circumstances. What earlier scholarship of Islam decided is not absolute and unchangeable. They laid down the foundations of *Maqasid al-Shari'ah* as per the medieval requirements because people across the Muslim medieval era fulfil the religious obligation on traditional lines. Most of the interpretations of the medieval era hardly fulfil the purpose of *Shari'ah*, same is the case with *fiqh* which does not fulfil the goals of *Shari'ah*, in contemporary circumstances.²⁵ So, researchers who confined their research to the protection of rituals, life and wealth need to understand modern needs which is possible through a sound political system. In this regard, a paradigm shift is required to focus on the system-based

²³ Ibrahim and Ab. Rahman 2016, *Op. cit.*, p. 293.

²⁴ Mohammad Hashim Kamali, *An Introduction to Shari'ah*, Kuala Lumpur: Dar ul-Ilmiah, 2006, pp. 1-7.

²⁵ Muhammad al-Tahir Ibn Ashur, *Ibn Ashur Treatise on Maqasid al-Shari'ah*, Herndon: International Institute of Islamic Thought, 2013, p. 2.

needs which necessitate the protection of all aspects of life. In contemporary circumstances, people have shifted from an exclusive cultural mind-set to a Multicultural lifestyle. Such a shift raised many new challenges like nationalism, minority issues and composite culture to participation in non-Islamic political systems. Many scholars like Shah Waliullah, Allama Iqbal, Maulana Maududi, Mohammad Hamidullah, Muhammad Hashim Kamali, Vali Reza Nasr, Tariq Ramadan, Louay Safi and several Islamic political leaders, including Malaysia's Anwar Ibrahim, Iran's Ayatollah Khomeini, Pakistan's General Ziaul Haqq, Turkey's Rajab Tayyib Erdogan and Tunisia's Rashid Ghanoushi and Shaheed President Muhammad Mursi, tried to find compatibility of Islam with modern ideals (human rights, gender equality, pluralism and peaceful coexistence with non-Muslims) of the modern world.²⁶

The higher objective of *Shari'ah* is political in nature because it governs humans and fashions their lifestyle. Under dominant Muslim political supremacy such issues were of no significance and were not operative during pious caliphate,²⁷ but such terminologies materialised after the emergence of *Mulukiyyat* (Shift of Caliphate to Kingship) and dominance of colonial powers. To achieve the kernel of *Shari'ah*, the whole life structure needs to be redesigned within the framework of the political objectives of *Shari'ah*. In this regard, some scholars suggested framing Islam within political orientation. Bassam Tibi used the term '*Shari'atisation*' for achieving the political objectives of Islamisation. According to him, it is "one of the key areas in which the twentieth-century political ideology of Islamism invents tradition is its call for a return to sharia law". The process of *Shari'atisation* refers not only to the Islamist agenda of institutionalising this reinvented conception of *Shari'ah* but also "the claim to derive its laws not from human deliberation but from the will of God is central to Islamist ideology".²⁸ *Shari'atisation* is an expression of Islamic

²⁶ Rane, H., The impact of *Maqasid al-Shari'ah* on Islamist political thought: Implications for Islam-West relations. *Islam & Civilisational Renewal*, 2011, 2(2), 337–357.

²⁷ Mohammad Hashim Kamali (2006), *Op. cit.*, pp. 5-9.

²⁸ Bassam Tibi, *Islamism and Islam*, New Haven: Yale University Press, 2012, p. 25.

political ideology derived from basic sources of Islam and is completely free from terrorism and violent Islamism. Its objectives are to be achieved in a justified manner. According to Tibi, “it is a major issue in the distinction between Islamism and Islam”²⁹, but in reality, such orientation is an orientalist dichotomy to specify their goal and to create dissent in Muslim scholarship and society. The unified objectives can be achieved by the implementation of Islamic political laws which serve as a shield to avoid any kind of external influence and injustice. Muslim intelligentsia from the early 19th century tried to make Islam and democracy compatible for human welfare. Among Arab scholars, Azzam Tamimi (1997) and Rifa’a Tahtawi (d. 1873) considered democracy more compatible with *Shari’ah* than Monarchy.³⁰ Other distinguished personalities of the Muslim intellectual legacy Jamal ad-Din al-Afghani (d. 1897) proclaimed Pan-Islamic influences in order to revere justice, *Shura* consultation and adherence to a constitution to overcome authoritarianism and make rulers accountable to the law.³¹

For *Shari’ah* governance political resurgence is necessary to achieve the objectives of religion. Islamic law is meant to maintain individual and collective consciousness of the people for the betterment of humans altogether. Among the major objectives, *Shari’ah* governance needs to be prioritised which encompasses all ingredients of religion. Human nature has a natural tendency to pursue happiness and to live as calmly and comfortably as possible, but this cannot be achieved unless natural ways of the rule are implemented. The tendency of human happiness is directly related to peace and security which can be accomplished reliably through divine rule so as to protect rights in a justified way. In achieving the political objectives of rule for implementation of *Shari’ah* principles, a just, honest and God-fearing power is indispensable. Earnest Muslim scholars, like Maududi, Syed Ahmad Shaheed, Syed Qutb Shaheed, Hasan al-Banna, Muhammad Asad and Ayatollah Khomeini, etc., uphold the thought that politics

²⁹ *Ibid.*, p. 161.

³⁰ Tamimi, A. Democracy in Islamic political thought. Lecture given at the Belfast Mosque, October 1997, retrieved on 16/09/2020.

³¹ Sherifa Zuhur, Precision In The Global War On Terror: Inciting Muslims Through The War Of Ideas, Strategic Studies Institute , 2008, 31.

should be given priority among basic principles of *Maqasid al-Shari'ah*. They believe that sovereignty belongs exclusively to God who guides humans in all walks of life. Bernard Lewis also acknowledged that sovereignty is the central issue perceiving that in principle the state was God's state, ruling over God's people; the law was God's law; the army was God's army; and the enemy, of course, was God's enemy".³²

Louay Safi upholds that, in the Islamic state legal order is derived from the principle of *Shari'ah* based on vast understanding of behaviour of society. He says:

"In terms of legislation, the domain of the state is to regulate individual behaviour in relation to the society as a whole, termed *maslahah mursalah* (public good), while as the regulation of behaviour between members of society (*mu'amalat*) falls within the domain of the Ummah. Thus, the purpose of the Islamic polity is to "facilitate the realisation of the human undertaking and to coordinate the activities of the Ummah that will enable a society to cope with economic and political challenges and to enhance the quality of life in the community".³³

Anwar Ibrahim upholds the thought that democratic Islam is not Western philosophy but terminology based on Islamic perception of human values in order to achieve the objectives of *Shari'ah* through human prosperity. *Maqasid al-Shari'ah* sanctifies the preservation of religion, life, progeny, wealth and intellect, objectives that bear striking resemblance to Lockean ideals expounded centuries later. Apart from the current malaise of authoritarianism plaguing the Muslim world, there can be no question that several crucial elements of constitutional democracy and civil society are also moral imperatives in Islam; freedom of conscience, freedom of expression

³² Bernard Lewis, Islam and Liberal Democracy. The Atlantic, <http://www.theatlantic.com/magazine/archive/02/Islam-and-liberal-democracy/308509/95>, 1993, p. 95.

³³ Louay Safi, The Islamic State: A conceptual framework, *The American Journal of Islamic Social Sciences*, 1991, 8/2, 221–234.

and the sanctity of life and property as demonstrated very clearly in the Qur'an, as well as by the teachings of the Prophet Muhammad".³⁴

The Ghazalian theory of higher objectives has an open route for further advancement and enlargement of the classical theory of the *Maqasid* model. Abu Zahrah attempted his best to influence the theoretical framework of Ghazali by propounding the philosophy of education and justice as a core issue of *maslahah*.³⁵ Likewise, amendments to the *Maqasid al-Shari'ah* need to be outlined and modified so as to bring these principles in consonance with modern settings and include new principles within its frame work, so as to satisfy the needs of people and develop idea of the relevance of *Shari'ah* to modern day life.³⁶

In the contemporary era, the political framework prevailing in Muslim countries is not based on *Shari'ah* results in corruption and deception. Due to the lack of *Shari'ah* oriented political institutions, it is more difficult to advocate effectively organised rights, protection of faith and life even to advocate women empowerment and liberation which Islam did earlier".³⁷ But some countries now are trying to give women access to education, economic initiatives and participation in political affairs, protection from domestic abuse and equality before the law.³⁸ It is necessary that *Maqasid al-Shari'ah* need to be reorganised in this context because *Maqasid* has the potential to make its most significant contribution to the reform of Islamic laws

³⁴ Ibrahim, A. Universal values and Muslim democracy. *Journal of Democracy*, 2006, 17/3, pp. 5-12.

³⁵ Muhammad Abu Zahrah, *Usul al-Fiqh*, Cairo: Dar al-Fikr al-'Arabi, 1997, pp. 61-71, 711.

³⁶ G.E. Attia, *Nabw Taf'eel Maqasid al-Shari'ah: Towards Revitalizing al-Maqasid*, Herndon, USA: IIIT, 2008, p.12.

³⁷ Halim Rane, *Islam And Contemporary Civilisation: Evolving Ideas, Transforming Relations*, Melbourne University Press, Vol. 2, 2010, p. 114.

³⁸ Sanja Kelly, *Hard-Won Progress and the Long Road Ahead: Women's Rights in the Middle East and North Africa*, in *Women's Rights In The Middle East And North Africa: Progress Amid Resistance* (chapter excerpt available at <http://www.freedomhouse.org/sites/default/files/270.pdf>, Freedom House, 2010, p. 7.

by laying a path towards Islamic democracy as well as the freedom of institutions necessary for citizens to struggle for their rights.

Muhammad Khalid Masud has discussed the issue of political rights which are diminished and dominated by other philosophies. He deliberates on these variations in detail and recaps their influence on political thought as follows:

“.....The economic changes, especially the new developments in the Mediterranean trade, challenged the Andalusian Maliki legal concepts and theories on trade and commerce. In a number of situations, the new trade practices came into apparent conflict with the prevailing doctrines of Islamic law”.³⁹

The collective nature of *Shari'ah* is upholding general human merit without any discrimination on the basis of beliefs, caste, colour, gender and region. Likewise, the comprehensiveness of *Shari'ah* is embedded in its nature to be implemented in governance to normalise general human life on the basis of equality and justice to accept external contextual changes, both substantial and material changes.⁴⁰

Maqasid issue was stabled in the 12th and 13th centuries, but the 19th and 20th centuries had a deep effect on the Muslim world due to the remarkable and long-term psychological, socio-cultural and religious life of Muslims. The economic and political dominance of European colonial rule has a deep impact on Muslim life. Due to the lack of a *Maqasid*-based political system, European policies created dissent in the Muslim thought resulting in an inter-religious and inter-ethnic conflict, poverty and illusory authoritarian rule which snatched *Shari'ah* governance from the public.⁴¹ Due to the impact of such

³⁹ Muhammad Khalid Masud, *Shatibi's Philosophy of Islamic Law*, Islamic Book Trust, KL, 1995, p. 86.

⁴⁰ Afifuddin et.al., Islamic Epistemology in the Socialization of Islamic Sharia and the Implementation of Democracy in Indonesia, *GNOSI: An Interdisciplinary Journal of Human Theory and Praxis*, 2019, Vol. 2(2), 77.

⁴¹ Halim Rane, 2010, *Op. cit.*, pp. 47-48.

circumstances, a new breed of Muslim scholarship advocated for the *Maqasid al-Shari'ah* as a full-swing rule for the welfare of society. In order to understand the Chemistry of *Shari'ah* and politics, the liaison between Islam and the nation needs to be understood in its inherent nature. As per Islamic teachings, religion and politics are inherently inseparable institutions. The upholders of this view believe that Islam and politics are inseparable entities and correlative. Symbiosis of religion and nation means mutual needs and interdependence. It is clear religion requires politics as a tool for protection and development, while politics needs religion as a moral and spiritual force for its official missionary and citizens. The correlative nature of religion and politics brings prosperity and strength to the nation and fashions its outlook on humanitarian values.⁴²

The Muslim scholarship of Al-Azhar believes in the dichotomy of religion and politics, Shaykh Ali Abdur Raziq believes, Islam does not determine the final system of government; none of the Qur'anic text explains that the nation must be built according to a certain system, republic, caliphate, democracy, theocracy and others. Muslims can choose a form of government that suits their environment.⁴³

However, other scholars do not uphold the thought of a dichotomy between Islam and politics. For them, Islam stands within the political framework in its entirety. According to Professor Yasin Mazhar Siddiqui, it is not permissible to create a dissent between Islam and politics. According to him, the illogical and illegitimate dissent was created by rulers of later ages in political Islam for their personal benefits, for group interests and due to the un-Islamic impact which they adopted from other religions and societies. Due to *Shari'ah* governance, religion gets strength and achieves maximum benefits. Both Islam and politics are intertwined and cannot be separated from each other.⁴⁴

In light of the above facts, the five principles laid down by Ghazali or other principles of *Shari'ah* advocated by other scholars are one way

⁴² Afifuddin, et al., 2019, *Op. cit.*, p. 78.

⁴³ Sjadzali, M., *Islam dan Tata Negara*, Jakarta: UI. Press, 1993, p.139.

⁴⁴ *Ibid.*, p. 91.

or another dependent on the *Shari'ah* governance. The political system provides a shield to all other aspects of life, necessary for the upbringing of human beings. The same thing was discussed by Ibn Kathir while quoting a prophetic hadith that says, "The Qur'an implements half of Islam at the individual level while the state implements half of Islam".⁴⁵

Islam is not a mere religion based on some rituals but is a civilisation because of its application of *Shari'ah*. In this regard, Gibb said: "Islam is indeed much more than a system of theology. It is a complete civilisation",⁴⁶ Islam is not a mere religion but a way of life, a true model of society, culture and civilisation.⁴⁷ In order to understand the civilisational character of Islam, one must understand that Prophet Muhammad (SAW) was not merely a prophet, but a statesman with the qualities of head of state, a judge and a military commander. Muslims across the globe consider purposefully, that Islam does not separate religion and state, court and mosque.⁴⁸ *Shari'ah* is the most important idiosyncratic aspect of Islamic knowledge in the life of state, so that its existence on justice, uprightness, reasonableness and impartiality becomes a source of inspiration for other countries.

Muslim scholarship needs to work firmly to review an Islamic identity in the socio-political context in order to make Islamic polity an undeniable aspect of *Maqasid al-Shari'ah*. Such a concept will give rise to *Shari'ah* governance in order to protect religion, life, progeny, wealth and intellect or sagacity. The second half of the 20th century since political independence from colonial domination witnessed the rise of the voice which advocates *Shari'ah* governance across the Muslim world. A large number of Islamic academicians envision the appropriate role of Islamic politics in society, to provide a reasonable response to the realities of modernity and their relation with Western

⁴⁵ Ibn Kathir, *Tafsir Ibn Kathir* (Urdu), Delhi: Etihad Publishing House, (n.d.), p. 369.

⁴⁶ Gibb, H.A.R., *Whither Islam*, London: Victor Gollencz Ltd., 1932, p. 12.

⁴⁷ Mortimer, Edward, *Faith and Power: The Politics of Islam*, New York: Vintage Books, 1982, p. 16.

⁴⁸ Birgit Krawietz, *Islam And The Rule Of Law Between Sharia And Secularization*, Berlin: Konrad-Adenauer-Stiftung E.V., 2008, p. 52.

systems and institutions. A firm ground was provided for the objectives of *Shari'ah* and its role and revival of Islam in its totality by the turn of time.

In order to make Islamic polity a dream come true, Muslim scholarship needs to revisit the classical approach of theory building in this context to interpret and relate the Qur'an as *Maqasid* tracing back to the administration of the second caliph, Umar bin al-Khattab (d. 644) and relevant Islamic jurisprudence, which accentuates public interest or *maslaha*.⁴⁹ Earlier *Maqasid* was not categorised till the concept was developed by the eleventh and twelfth-century theologian Abu Hamid al-Ghazali (d. 1111) in reference to five fundamental protections: life, religion, property, progeny and intellect. However, this conception was revised and expanded in the fourteenth century by Ibn Taymiyyah (d. 1328) and was developed as a new philosophy of Islamic law by Abu Ishaq al-Shatibi (d. 1388).⁵⁰

The development of *Maqasid al-Shari'ah* further or beyond Ghazali's theory of five principles starts with Izz al-Din Abd al-Salam when he discussed *Maqasid* in larger context and extended the discussion in terms of promoting lawful and unlawful in his work on the *qawa'id al-ahkam* or "legal maxims".⁵¹ A more open-ended list of values, identified by Ibn Taymiyyah, is fulfilment of contracts, preservation of kinship ties, honouring the rights of one's neighbours, sincerity, trustworthiness and moral purity further expanded the *Maqasid*. Ibn Taymiyyah objected to the objectives of Islamic law being limited to the five *Maqasid* expounded by al-Ghazali, stating that these five or six do not represent the highest or most significant part of *Shari'ah* objectives.⁵²

⁴⁹ Ahmad Raysuni, *Imam Al-Shatibi's Theory of The Higher Objectives And Intents of Islamic Law*, Herndon: International Institute of Islamic Thought, 2005, pp. 38-45.

⁵⁰ Muhammad Khalid Masud, *The Doctrine of Siyasa In Islamic Law*, Recht: Van De Islam, 2001, Vol.18, pp. 1-29.

⁵¹ Mohammad Hashim Kamali; 2008, *Op. cit.*, pp. 116-117.

⁵² Mohammad Hashim Kamali, *Maqasid al-Shari'ah Made Simple*, Herndon: International Institute of Islamic Thought, London, 2008, p. 118.

The work of *al-Shatibi*, however, made a more profound contribution to the theory of *Maqasid* by focusing on the concept of *maslaha* (public interest)⁵³ as an approach to overcoming the rigidity imposed by literalism and *qiyas* (analogical reasoning). The *Maqasid* theory of *al-Shatibi* is based on an inductive reading of the Qur'an in order to identify the higher objectives, intent and purpose of the Qur'anic verses, which are meant to preserve human interests in both this world and the next. Before *Shatibi* very less importance was given to *Maqasid* by scholars of jurisprudence. Comparatively, it is viewed, very little attention was paid to writing books about Islamic law from the *Maqasid* point of view. It is the need of the hour to study Islamic law from the *Maqasid* point of view and establish a methodology that will enhance significant issues in the like formation of *Shari'ah* governance to protect religion and humans along with their property and progeny. At present, an *ijtihadic* paradigm of *Maqasid al-Shari'ah* is the need of the hour and needs to extend *ijtihad* only tool of judgment for human welfare.⁵⁴

Muhammad Hashim Kamali declared Quran's most important purpose in the form of leadership character:

"We have not sent you (Prophet Muhammad (SAW)) but a mercy to the world". (Surah al-Anbiya 21: 107).

The Qur'an's characterisation of leadership is:

"A healing to the (spiritual) ailment of the hearts, guidance and mercy for the believers (and mankind)". (Surah Yunus10: 57).

While pondering upon these verses, it becomes clear that pre-Islamic leadership was oppressive, biased and based on inhuman values which snatched the liberty and freedom of people. In these verses, Prophet Muhammad (SAW) was guided to behave not like earlier rulers but the two utmost objectives of compassion (*rahmah*) and divine guidance (*Huda*) in the preceding verses are then authenticated by other provisions in the Qur'an and the *Sunnah* with a purpose to

⁵³ Muhammad Khalid Masud, *Op. cit.*, pp. 127-28.

⁵⁴ *Ibid.*, p. 128.

establish justice, exclude prejudice and ease suffering. *Shari'ah* is meant to empower humans to abandon the lavishness of *nafs* (self) such as unrestrained lust and inclination to evil. Instead guides humans to adopt rectitude and veracity to make them worthy to achieve the divine trust of *Khilafah*, on earth. Thus, humans are delegated with the duty to establish justice and good governance in accordance with the guidelines of *Shari'ah*.⁵⁵

The laws of the Qur'an and the *Sunnah* also seek to promote cooperation and mutual support within the family and the society at large. But any untoward situation at the family or society level needs power for a solution. In the Islamic political system, such power is known as *Shari'ah* governance which believes in divine uprightness. Justice itself is demonstration of God's sympathy (*rahmah*) manifested in the realisation of *maslahah*, considered to be the universal value and objective of the *Shari'ah*.⁵⁶ To implement justice Islamic polity or *Shari'ah* governance is incumbent. Without it *Shari'ah* governance, justice to everyone or at all will not be implemented. To work for the *Shari'ah* governance, the five higher objectives of Islam will be achieved easily and *Shari'ah* governance will demarcate the line of *Dawa* work too. If such governance is based on personal greed, it will yield nothing for the general public and cannot cater to the objectives of *Shari'ah*. So, it is necessary to work for the best representation of *Shari'ah*, any able person having a hold on the *Shari'ah* at large will help to publicise the aims of Islamic polity. Shaheed Hasan al Banna eloquently said, "One does not need to seek power, instead find an able person who has the ability to implement Qur'anic plan. I consider them my soldiers, supporters and subordinates. But if such a person is not available then work out to get a hold of the power and "ought to seize it from the hands of any government that does not carry out the commands of God".⁵⁷

⁵⁵ Muhammad Hashim Kamali, 2008, *Op. cit.*, p. 14.

⁵⁶ *Ibid.*, p. 2.

⁵⁷ Hasan al-Banna, *In Majmu'at Rasail al-Imam al-Banna* (Total Collections of al-Banna's Letters). Chief Editor Ismail Turkey, General Supervisor: Jum'ah Amin Abdel Aziz, Cairo: Dar al-Tawzi' wa al-Nashr al-Islamiyyah, 2006, p. 356.

Muslim scholarship has the consensus that Islam includes religion and philosophy; economics and politics; civilisation, culture and history. From a progression point of view, it is both a religious faith and a social order. Islam's religious order is intertwined with its social order. Politically it is an ideology, which governs and sums up its civilizational. According to Ziaul Haque, "Islam aims at discovering those facts and principles which governed the course of the historical development of the Ummah, guided its creative ethos and civilisational role in the past and defined the broad contours of Islamic ideology and thought".⁵⁸

Discussion and Result

Shari'ah is the backbone of the political life of the Islamic system. Its main purpose is to implement justice and eradicate oppression. Maqasid al-Shari'ah is to inculcate the concept of equality which is possible through reform or tazkiyah. Tazkiyah entails growth in harmony within the tawhidic paradigm of life so that the benefits and needs of all people (in modern-day language citizens) can be preserved in an indiscriminate way. In the Islamic political system, Shari'ah signifies role of vicegerency and accountability. In modern day life, Muslim academia in particular, had left unattended the political system and its role as Maqasid al-Shari'ah and its constituents or peripheries like genetics, blood transfusion, economic dealings, etc., are discussed at length. Maqasid al-Shari'ah, or the higher objectives of Islam, implies 'well-being' of the people which is possible only through the divine guidance of a political system based on divine principles. Across the globe, democratic socialism gave humanity nothing than WW-I and WW-II and is heading towards WW-III. In divine political authority, power and legislation lie under God and humans are trustees in which all human beings are equal as citizens and their wellbeing is the duty of the vicegerent.

Conclusion

Maqasid al-Shari'ah is the objective of laws derived from fundamental sources of Islam governing Muslim's life to change the character of

⁵⁸ Ziaul Haque, Islamic Research: Method And Scope, Source: *Islamic Studies*, 1976, Vol. 15 (Summer), pp. 43-56.

the people in two ways: one to reform oneself at an individual level and act as representative of religious guidance and restrict one's soul from illegitimate (*Munkar*) activities. Another is to submit to the authority of God and obey his dictums for the welfare of society and to implement justice for the welfare of the whole of humanity. In relation to the bulk of the legal verses of the Qur'an (more than 350 verses that are political in nature) were revealed in *Madinah*. While discussing the role and inclusion of polity or *Shari'ah* governance in the *Maqasid al-Shari'ah*, it is necessary to consider Islamic polity as the top priority of *Maqasid al-Shari'ah*. It acts as a divine shield to protect all aspects of religion and provides the impetus, without discriminating on the ritual system of Islam, protection of life and property and intellect. Prioritising the inclusion of Islamic polity/*Shari'ah* governance in all aspects of life and will keep human beings safe from external atrocities or philosophies. Political power plays an important role in safeguarding the religious life and property of the people. A *Maqasid* approach needs to be redesigned and reoriented according to new circumstances faced by the Muslim community across the globe. Earlier it took juridical status and discussed higher issues in a philosophical sense. Inclusion/induction of new parameters in *Maqasid al-Shari'ah* on a priority basis needs reconciliation on *Ijtihadic* or *Ijma* level for the cultural upbringing at the national and international levels. It is obvious that the cultural and civilisational aspects of any society are intertwined with politics. In this course, the purpose of *Maqasid al-Shari'ah* needs to be discussed within the rationalist methodology of *Ijtihad/Ijma*, because a purpose is not valid unless it leads to the fulfilment of social good and avoidance of mischief at all stages. *Shari'ah* governance is a divine plan for human welfare that contains rules for the public good and normalised behaviour that guides the Muslim community toward prosperity. The operational aspect of *Shari'ah* is acceptable to all Muslims to achieve public good, like safety and security. If still, political aspects will not get space in the *Maqasid al-Shari'ah*, the negligence will lead to further disruption and disorder. *Shari'ah* in its entirety seeks to protect and promote all measures necessary for human advancement in spiritual and worldly life.

PARENTAL ALIENATION – A SPIN-OFF OF CHILD CUSTODY

*Iqra Firdous**
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Abstract

When marital discord evolves into hatred, many couples are quick to see divorce as their best option. Divorce may be an easy way out for the couple, but it often wreaks havoc on the children. Generally, it is for the child's biological parents to make all the decisions involving the child's residence, healthcare, education, and religious upbringing. However, when couples separate, all of these issues become debatable. In such situations custody laws and the court get into action. Child custody as such seems to be a solution for the estranged parents as they get the order of separation and the court decides the custody, having regard to all the personal and statutory laws. But the problem doesn't end here as the custody is temporary because it's the father being the natural guardian who gets the child back after the custody period is over. (though certain situations lead to his disqualification to act as such). When a child remains with only one of his/her parents he/she tends to develop a much closer bond with that parent and at the same time, he/she drifts apart from the parent who doesn't hold the custody. Thus, it results in the alienation of the noncustodial parent.

Parental alienation is a strategy whereby one parent intentionally displays to the child unjustified negativity aimed at the other parent. The purpose of this strategy is to damage the child's relationship with the other parent and to turn the child's emotions against him/her. Children can become alienated from their parents for a variety of reasons. Sometimes a child may become alienated from the parent who initiated the divorce, blaming that parent for breaking up the family. This paper explores the concept of parental alienation and various cognitions that identify it. It also brings out how courts respond to such matters.

Key Words: child custody, parental alienation, welfare of child, judicial intervention.

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1. Introduction

While deliberating upon the cases of child custody, it's amongst a host of issues; Parental Alienation demands a deep analysis. Parental Alienation is a strategy, whereby one of the parents intentionally displays to the child unjustified negativity directed towards the other parent.¹ The purpose of this strategy is to damage the child's relationship with the other parent to turn the child's emotions against that other parent.² Parental alienation is a particular family dynamic that can emerge during divorce in which the child becomes excessively hostile and rejects one parent. In 2017, The Supreme Court of India in *Vivek Singh vs Romani Singh* defined Parental Alienation as³:

Parental Alienation is a disorder that arises primarily in the context of child custody disputes. Its primary manifestation is the child's campaign of denigration against a parent, a campaign that has no justification. It results from the combination of a programming (brainwashing) parent's indoctrination and the child's contributions to the vilification of the target parent.

Parental alienation is frequently confused with the parental alienation syndrome (PAS). Dr. Richard Gardner, an American psychiatrist coined the phrase "parental alienation syndrome" and wrote extensively about it. He defined the syndrome as⁴:

PAS is a childhood disorder that arises almost exclusively in the context of child custody disputes. It is a disorder in which children, programmed by the allegedly "loved" parent, embark upon a campaign of denigration of the allegedly "hated" parent. The children exhibit little if any

¹ Lewis, Child Custody Evaluations by Social Workers: Understanding the Five Stages of Custody [Washington, DC: NASW Press, 2009], p. 44).

² *Ibid.*

³ *Vivek Singh v. Romani Singh*: Supreme Court of India Civil Appeal No. 3962 of 2016.

⁴ Recommendations for Dealing with Parents Who Induce a Parental Alienation Syndrome in Their Children, *Journal of Divorce and Remarriage*, 28, Nos. 3-4 [1998].

ambivalence over their hatred, which often spreads to the extended family of the allegedly despised parent.

Gardner used the term “syndrome” because of his medical background. A syndrome is a cluster of related symptoms. For Gardner, the syndrome describes the child’s campaign of denigration against one of their parents – a campaign that is encouraged by the other parent. It should be noted that there is no PAS when abuse or neglect is present. PAS can only be applicable when the “hated” parent has not abused or neglected the child or exhibited any behaviour that would justify the child’s animosity toward that parent. While PAS identifies a problem in the child (“a childhood disorder”), parental alienation identifies a collection of one parent’s behaviours aimed at causing the child to become alienated from the other parent. Sometimes, a child may become alienated from the parent who initiated the divorce, blaming that parent for breaking up the family.

Cases of parental alienation usually occur in case of separation of spouses or divorce cases however they may also occur in families where husband and wife are living together. In addition, alienation may be carried out by both mothers and fathers, although this practice has been more commonly associated with mothers since they are more frequently given custody of the children than fathers.⁵ In parental alienation, in addition to the conflict between the parents, the child is also placed in the middle of the conflict, through insulting comments about the other parent and the fact that the child is forced to take a position.

2. Indicators concerning a Targeted parent

Targeted parents often experience a loss of parental role and power. They wish to maintain a relationship with their child and to seek involvement in the child’s life. The difficulties encountered by targeted parents in fulfilling their parental role in addition to the

⁵ Ana Tavares- CICPSI, Faculty of Psychology, University of Lisbon, Lisbon, Portugal. What does it mean to be a Targeted Parent? Parents’ Experiences in the Context of Parental A, available at: <https://doi.org/10.1007/s10826-021-01914-6>.

concerns regarding their child's current and future mental health may contribute to the experience of a loss of control and psychological maladjustment. If:

- i. The child shows a persistent loath for the targeted parent.
- ii. The child's speech chants the speech of the alienating parent.
- iii. The child ardently rejects visiting the targeted parent.
- iv. Most of the child's beliefs are enveloped with the alienating parent and most often irrational.
- v. The inference drawn by the child is not from direct experiences but from what he/she has been told by others.
- vi. The child is not in a position to see good but just the hatred without having any doubt of that feeling.
- vii. The child cannot feel guilty about his or her behaviour toward the targeted parent.
- viii. The child and the alienating parent are in lockstep to belittle the targeted parent.
- ix. The child is asked about the targeted parent, it at once triggers his or her hatred.

3. Effects of Parental Alienation on the Children

Parental alienation is a form of emotional child abuse. It can have a devastating impact on a child's future life. It can impair the ability of a child to establish and maintain future relationships and can lower his/her self-image. A child can feel a loss of self-respect and he can develop a sense of guilt, anxiety, and depression for destroying his/her relationship with a previously loved parent. His aggression can turn him/her into a delinquent child which can in turn disrupt his/her education.

Even if the child is in front of the judge, he/she will speak in a language and syntax similar if not identical to the alienating parent. By this, a targeted parent often appears anxious, depressed, or angry while the alienating parent appears relaxed, composed, and, therefore, credible.

Parental Alienation is also employed as a strategy by intentionally encouraging the child to turn against the other parent. When this strategy is used by one parent in hopes of alienating the child from the other parent, it is tantamount to teaching the child how to hate.⁶

Canadian Judge John H. Gomery put it eloquently this way⁷:

Hatred is not an emotion that comes naturally to a child. It has to be taught.... The defendant has deliberately poisoned the minds of his children against the mother that they formerly loved and needed.

Parental alienation can be mild, extreme, or anything in between. In its extreme form, it can also be defined as criminal behaviour.

4. Parental Alienation and the Courts

In the USA, courts in different states have responded to parental alienation in different ways. There have been four categories of these responses:

- i. Criminal Response: Some states make interference with custody a criminal offense. For example, in New Jersey a crime that may lead to imprisonment for three to five years or a fine of \$7,500 or both.⁸
- ii. Civil Remedies: All courts can impose civil sanctions by way of contempt-of-court orders. When a parent's strategy of

⁶ Levy-Warren, M. (2016), The Role of Hatred in Development, *Parenting: Contemporary Clinical Perspectives*, 139.

⁷ *Stuart-Mills, P. v. Cher, A.J.*, Sup. Ct. Quebec, District of Montreal [1991].

⁸ Sec 9(2)-(4) NJ Rev. Stat; also see Golinder Law, LLC, March 03, 2020.

parental alienation endangers the child's relationship with the other parent, some of the possible civil remedies may be economic sanctions against the alienating parent or short incarceration time for contempt of court.⁹

- iii. Custody Responses: All courts that have passed the initial judgment in a custody case have the authority to modify their previous orders. Responses to parental alienation have been to deny initial custody (order a parental alienation evaluation, deny custody to the alienating parent); to modify visitation (extend visits between the child and the alienated parent, establish supervised visitations); and to modify previous custody (temporary modification of custody for specific periods, permanent modification of custody, reverse custody).¹⁰
- iv. Therapeutic Responses: Family law's innovations and reforms have become the showcase for therapeutic jurisprudence. Parental alienation cases provide an opportunity to demonstrate how the strategy of replacing the "punishment" role of the courts with the therapeutic "fix-the-problem" approach can advantage children. Evaluation and therapy are earmarks of the therapeutic response to parental alienation. The court could order an evaluation of the child to determine whether parental alienation is operative in a case and, if so, at what level is it operative. Individual therapy, Family therapy, and also parental alienation therapy by a specialist in extreme cases can be ordered by the courts.¹¹

⁹ Gibbs, T. N. (2019), Paper courts and parental rights: Balancing access, agency, and due process, *Harv. CR-CLL Rev.*, 54, 549.

¹⁰ Kratky, N., & Schröder-Abé, M. (2018), How are parental functioning and single parenthood associated with court outcomes? An analysis of child protection cases, *Child Abuse & Neglect*, 84, 95-105.

¹¹ Welbourne, P. (2016), Adversarial courts, therapeutic justice, and protecting children in the family justice system, *Child & Fam. LQ.*, 28, 205.

5. Child Negligence: An Evaluation

Studies of psychiatric and social risk factors for child maltreatment have been a glaring example of social reality. In the National Institute for Mental Health's Epidemiologic Catchment Area survey, 7,103 parents from a probabilistic community sample who did not self-report physical abuse or neglect of their children were shown to a disastrous consequences in Uat Wave I were followed to determine the risk factors associated with the onset of self-reported physical abuse or neglect identified at Wave II. Social factors considered included age, socioeconomic status, social support, education, household size, and gender. In addition, several psychiatric disorders, including substance abuse disorders and depression were examined. Risk models were developed using hierarchical logistic regression.¹²

Physical abuse and neglect were found to have distinct sets of risk factors, with minimal overlap between the groups. Social and demographic variables were found to be limited predictors of maltreatment, while substance abuse disorders were strongly associated with the onset of both abuse and neglect (relative risks = 2.90 and 3.24 respectively). Depression was found to be a strong risk factor for physical abuse (relative risk = 3.45). Implications of the findings are discussed in terms of major causal models of maltreatment.¹³

6. Indian Scenario

In India, it is felt that fathers are deprived of love, affection, and quality time with their children by the custodial mothers on various flimsy pretexts. Although they are neither unfit nor have unfatherly characteristics, the mothers have succeeded in keeping the child away from the father. Courts from time to time have dealt with cases on child custody in general, as well as parental alienation in particular.

¹² G.D. Wolfner et al, A profile of violence toward children: A national study, Child Abuse & Neglect (1993).

¹³ Younas, F., & Gutman, L. M. (2023), Parental Risk and Protective Factors in Child Maltreatment: A Systematic Review of the Evidence. *Trauma, Violence, & Abuse*, 24(5), 3697- 3714. <https://doi.org/10.1177/15248380221134634>,

In *Vikas Agarwal v. Geeti Mathur* the Delhi High Court held¹⁴:

It considered Article 39(e) and (f) in a bitter custodial battle between the parents on divorce. The father had remarried and the mother had taken away the custody of the child after the remarriage. Within six months of custody with the mother, the child became hostile towards the father.

The High Court transferred the matter to the Family Court to seek the help of a trained person who was a child counselor. The High Court said that the Family Court was to decide the matter only after receiving the report of the counselor and revealing the truth about whether the mother poisoned the mind of the daughter. The High Court observed that parental responsibility should be shared equally and that there was a presumption that this would be in the best interests of the child.¹⁵

In doing so the primary considerations would be:

...ensuring benefit to the child of having to spend significant time with both parents to develop a meaningful relationship; and when there are grandparents, uncles, aunties, cousins, etc., overnight access so that the child gets love and affection from the extended family... ensuring the need to protect the child from psychological harm...¹⁶

According to the court, Articles 39 (e) and (f) of the Constitution of India ensured that the child has a right “to get the love and affection of both parents; right to quality of life; to care and the right to develop a sense of belonging”.¹⁷

¹⁴ *Vikas Agarwal v. Geeti Mathur*, 1 (2017) DMC 783 (DB) (Del.).

¹⁵ Pradeep Nandrajog and Justice Yogesh Khanna JJ.

¹⁶ *Ibid.*

¹⁷ Bajpai, A. (2018), *Child rights in India: Law, policy, and practice*. Oxford University Press.

In *Bindu Philips (represented by her Power of Attorney P.T Philipose) v. Sunil Jacob*¹⁸ where the mother who was residing abroad sought custody of the two children agreed for access and by consent, the husband also agreed to give access.

The Apex Court has made certain interesting observations and asked the parents:

...to maintain cordial relations in front of the children and avoid happening of any kind of untoward incident or/ and avoid exhibiting any kind of unpleasant behaviour in their verbal exchanges. Both must realise that such incidents, if occur and are witnessed by the children, would create more harm to children and affect their innocent minds. They may even lose respect for their parents...

The Court observed:

...The object of the meeting is to allow the children to meet their mother in a most dignified, congenial, and happy atmosphere. The husband should ensure that such meetings bring some kind of happiness to the children and their mothers. He, for his selfish interest, should not try to tutor the children something adverse about the mother, instead, he should take positive initiative in telling the children about their mother especially coming to India to meet them, and that the children should welcome her and spend some good time with her...in our opinion both should equally realise that the children were deprived of the company of the mother without their fault but only due to parents infighting, who failed to realise the adverse effects of their fighting on the children upbringing. The infighting has equally deprived the members of the family, individually and collectively, of enjoying happiness, peace, and harmony. In our considered view, both must further realise that the children need the love and affection of mother and father constantly and not individually because it is the parents who are responsible for bringing their children into this world. Both must realise that the mother cannot perform the role of a father and so is the father who cannot perform the role of the mother.

¹⁸ *Bindu Philips (represented by her Power of Attorney P.T. Philipose) v. Sunil Jacob*. AIR 2017 SC 1522.

So far as the mother's role towards her child is concerned, it is more pivotal because she gives birth to her child. She is, therefore, capable of giving more love, affection, and good training to her child", the Court concluded.

To illustrate more accurately what parental alienation is, let's take an example of a couple whereby the husband was working in England and his wife was living with her minor son at her in-laws' place. With time the wife realised that something was fishy as her husband started avoiding her on the telephone, and had not come home for a few years. Moreover, her sister-in-law used to control her son. Finally, it was revealed that her husband is already married in England with two kids. After all the hue and cry by her relatives, she left the house but her son didn't accompany her as he was brainwashed by her aunt that his mother was a cruel lady, who would kill him if he accompanied her. Days passed and the wife was living with her sister coz she had lost both of her parents in her childhood. She used to go to meet her son in school but he used to beat her, spit in her face, and abuse her. Every day she used to come back crying. Then finally she divorced her husband.

When the child was asked to choose with whom he wanted to stay, he chose his father. Mother accepted the decision and after many years she re-married. It was later found that her son was abandoned by her ex-husband and he didn't take him along to England. Her ex-sister-in-law and father-in-law who used to brainwash her son had died and the child now a grown-up was kept with a neighbour who took care of him. In all this mess around, the child had taken up drugs, left studies, and had been in rehabilitation centres, hospitals, and even police stations a lot of times. The irony here is that his father had barred him from inheriting any of his property.

The mother on the other hand couldn't keep him with her because her 2nd marriage was at stake, maybe her husband would accept the child but her in-laws didn't approve of it. Thus, she too refrained from keeping the child with her. At present the child is living in a rehabilitation home all alone with none of his parents and this is all

because of the intentional alienation that was conducted against the mother, thus ruining his future as well as his whole life.

7. Matrix of the Problem

Parental Alienation as discussed above describes the process, usually intentional, by which a parent conveys through words, actions, or behaviours to the child that the other parent (the targeted parent) is dangerous, unsafe, abusive, or “bad,” which results in the child becoming fearful or avoidant of the targeted parent. It can have catastrophic effects on the child, especially his future briefly delineated as under:

- i. We have to see whether the behaviour of the targeting parent is just simple gatekeeping i.e., a parent is preventing or limiting contact between the child and the other parent or it is parental alienation wherein the other parent acts in such a way to cause the child to dislike or become fearful of the other parent, even though the other parent has not done anything to cause the reaction in the child.¹⁹
- ii. When a couple is married and has children they have to protect the rights of the children and perform their responsibilities and duties towards the children. This duty and responsibility has to continue even when the marriage is dissolved as neither can substitute the role of the other.²⁰
- iii. To ensure that a child receives the love and affection of both parents and that the interest of the child remains a paramount consideration, whenever a case of such nature comes before the court of law, the court must order joint custody in all

¹⁹ Schoppe-Sullivan, S. J., Altenburger, L. E., Lee, M. A., Bower, D. J., & Kamp Dush, C. M. (2015), Who are the gatekeepers? Predictors of maternal gatekeeping, *Parenting*, 15(3), 166-186.

²⁰ Cannon, E. A., SCHOPPE-SULLIVAN, S. J., Mangelsdorf, S. C., Brown, G. L., & Szewczyk Sokolowski, M.A.R.G.A.R.E.T. (2008), Parent characteristics as antecedents of maternal gatekeeping and fathering behaviour, *Family Process*, 47(4), 501-519.

cases wherever practicable. While at first, this arrangement may be difficult, especially if parents dislike each other, it is highly advantageous to all parties and the child in the long run.²¹

- iv. When both parties have had the opportunity to discuss a major decision relating to the children, they start to get used to communicating with the other party. After a while, regularly occurring issues are more easily resolved because the parties learn the benefits of cooperation in practice. There will be fewer conflicts related to money, time, and stress.²²
- v. The custodial parents in sole custody situations (wherein the sole decision-making power rests with that parent) may feel burdened or trapped by their parental responsibilities which leave them emotionally and physically exhausted. Non-custodial parents (who get little to no input in decision-making) may feel isolated from their child if their parental role is reduced to paying support and visits. This leads some parents to pull away from their children emotionally. Joint custody alleviates these psychological issues by continually reinforcing shared parenting roles. The more a person is engaged with his/her child as a parent, the more they show their involvement.²³
- vi. Regular contact and participation in decision-making encourage parents to be attentive to their children's needs. When concern is focused on the children and their best interests, parents may be more willing to make sacrifices to ensure children are provided for even in financially tight

²¹ Austin, W. G., Pruett, M. K., Kirkpatrick, H. D., Flens, J. R., & Gould, J. W. (2013), Parental gatekeeping and child custody/child access evaluation: Part I: Conceptual framework, research, and application, *Family Court Review*, 51(3), 485-501.

²² Adamsons, K. (2010), Using identity theory to develop a midrange model of parental gatekeeping and parenting behaviour. *Journal of Family Theory & Review*, 2(2), 137-148.

²³ Goldstein, M. L. (Ed.). (2015), *Handbook of child custody*, Springer.

situations.²⁴

vii. After a separation or divorce, children often experience feelings of loss from the sudden absence of one parent in their lives. Joint custody helps them to adjust to their post-separation lives through regular physical access and the knowledge that both parents are participating in major decision-making. In turn, they will feel loved by both parents and they will see that their parents are working together despite their marital conflicts to care for them and a sense of importance will develop within them.²⁵

viii. Moreover, once the custody case is decided by the family court, a separate official wing for the supervision and the implementation of court orders should be established by the state social welfare department as the courts cannot continue the supervision of parenting after the judgment is pronounced. The officials must have continuous visits for the appraisal of the child's wellbeing and accordingly submit reports to the department regarding the fulfillment of the court orders. In case of any default, the official should be statutorily authorised to approach the concerned court to reconsider the order as per the findings in the report.²⁶

8. Conclusion

Parenting in modern times is too complex to be solved in a whiff. The growing consciousness about the rights of children coupled with recognition of *inter se* responsibilities of parents, has made childcare rather tricky. When parents resort to playing blame games against one another, it directly affects the welfare of the

²⁴ Warburg, R. (1979), Child custody: A comparative analysis, *Israel Law Review*, 14 (4), 480-503.

²⁵ Bandaranayake, B. M. P. (2021), Child-Friendly Justice and the Best Interest of the Child: A Comparative Analysis of Sri Lanka, India, and International Standards.

²⁶ Parashar, A. (2020), Indian Courts and the Concept of the 'Best Interests of the Child', *Redefining Family Law in India*.

child. Thus, the state being *parens patriae* must discharge its constitutional duty of preserving and protecting the welfare of the child through the said department. The Child Welfare Department has to assume charge from where the court leaves off.

PARAMETERS AND DIMENSIONS OF JUSTICE AND PROSPERITY UNDER THE CONSTITUTION OF INDIA: A ROAD MAP FOR INCLUSIVE DEVELOPMENT AND COHESIVE CO- EXISTENCE

*Prof. M. Afzal Wani**

Justice and prosperity are the two basic desires of every human being. Ability to perform and opportunity to develop only make one feel that he is in a situation of being treated justly and fairly. In the absence of opportunity to do and develop everyone feels deprived, marginalised, impoverished and constitutionally rundown as a prey of injustice. In view of this the position of justice in the constitution of any nation cannot be measured by just the presence of a judicial system but by the conceptual framework and the road map it provides for the progress or development of all its citizens and their participation in policy making and governance. In the modern world, the prosperity, justice and the fair treatment by authorities ensured to people are considered as the most important components of development. In other words, justice as an inclusive concept encompasses opportunities for economic growth and human development. Development helps in the better enjoyment of rights while poverty pushes a person into despondence. The United Nations Declaration on Right to Development, 1986 also provides that the development is “a comprehensive economic, social, cultural and political process, which aims at the constant improvement of the well-being of the entire population and of all individuals on the basis of their active, free and meaningful participation in development and in the fair distribution of benefits resulting therefrom”.¹In the contemporary context, the development is viewed as ‘a process of expanding the *real freedom* that people enjoy’.²

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¹ *The United Nations Declaration on Right to Development* (1986), Preamble, para 2.

² Amartya Kumar Sen, *Freedom as Development* (1999).

What the Constitution of India Assures?

The Constitution of India seeks to secure to all its citizens: Justice – social, economic and political; Liberty of thought, expression, belief, faith and worship; Equality of status and of opportunity; and to promote among them all Fraternity assuring the dignity of the individual and the unity and integrity of the Nation... It contains a full-fledged chapter on fundamental rights guaranteeing most important human rights to attain the goals of justice, liberty, equality and fraternity as set out in the given expression of the people of the country in the Preamble of the Constitution at the end of the long battle for independence. A list of directive principles has been given in a separate chapter for the guidance of state in attaining the objectives of the Constitution, which though not enforceable through Court, are fundamental to the governance of the country. The content of right to development as reflected by the Declaration on Right to Development, 1986 is quite apparent from these two chapters of the Constitution. The constitutional processes and the institutions prescribed in its various other provisions aim at the same end of assuring people their due as envisaged. The judicial interpretation of the guaranteed rights and the directive principles makes the point more than clear as is obvious from pro rights attitude of Courts and widening of the horizon of certain rights like right to life and liberty. Presently the right to dignity and the right to development hold the key to enjoy any other right making the state pay maximum attention towards citizens' right to education, health and so on.³

Granville Austin has observed that two revolutions, the national and the social, had been running parallel in India since the end of the First World War. With independence, the national revolution could be completed, but the social revolution must go on. Freedom was not an end in itself but only a means to an end, that end being the raising of the people to higher level and hence the general advancement of

³ M. Afzal Wani, "Understanding Right to Development as Envisaged by the Constitution of India" *IIKJLS* [2012]. *Ideas reproduced here for further coverage.*

humanity.⁴ Pandit Jawahar Lal Nehru told in the Constituent Assembly that the first task of that Assembly was to free India through a new Constitution, to feed the starving people, clothe the naked masses, and to give every Indian the fullest opportunity to develop himself according to his capacity. The National Human Rights Commission (NHRC) in its Annual Reports of 1996-97 referring to the famous "Tryst with destiny" speech of Jawahar Lal Nehru put a question to itself in the context of its statutory responsibility of promoting and protecting human rights, the first Prime Minister, thus speaking on 14-15 August, 1947 said: "Long years ago we made a tryst with destiny, and now the time comes when we shall redeem our pledge, wholly or in full measure, but very substantially".

Seen in the context of right to development, the National Human Rights Commission has stated that it has a conviction that all human rights whether civil or political, economical, social, and cultural must be viewed, as the 1993 Vienna Declaration and Programme of Action did as "universal, indivisible, inter dependent and inter related". The human rights are classified as: civil and political rights; economic, social and cultural rights; and collective rights of self-determination and right to development. The first category of these rights is contained in Part III of the Constitution of India under the heading of "Fundamental Rights" which are enforceable through Courts. The second category of rights are contained in Part IV of the Constitution under the heading of 'Directive Principles of State Policy' which are not enforceable by any Court, but the principles therein laid down are nevertheless fundamental in the governance of the country and it is the duty of the state to apply these principles in making law. The third category of these human rights are contained in various provisions of the Constitution spread over in different chapters related to individual and national development including Part IX and IX-A of the Constitution. The Constitution 73rd and 74th Amendment Acts inserted in Part IX and IX-A of the Constitution provisions to create institutions of local self-government meant for decentralised

⁴ Granville Austin, *The Indian Constitution—Corner Stone of a Nation* (1999).

planning which is in reality a requirement for the exercise of right to development.

The Declaration on Right to Development, though does not suggest a specific model of economic development, any model of development people may choose should, however, aim at the realisation of that right for every individual and all people. In the least, the policy should provide equality of opportunity to everyone, including women, to basic resources, education, health services, food, housing, employment and help realise human rights for all.⁵ The Indian constitutional model for development, as described, is a theoretical exposition of the expected inclusion of basic principles in any nation's developmental model. An over view of the rights and principles expressly mentioned in the Indian Constitution will further explain the position.

Equality for Development

Article 14 of the Constitution provides that the State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India and Article 15 prohibits discrimination by State against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them. And no citizen be on such grounds be subject to any disability, liability, restriction or condition with regard to—(a) access to shops, public restaurants, hotels and places of public entertainment; or (b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public. The State may, however, make any special provision for women and children or for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes. By 93rd amendment of the Constitution in 2005 it has been added that the State can make any special provision, by law, for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes or the Scheduled Tribes in so far as such special provisions relate to their

⁵ *Ibid.*

admission to educational institutions including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions referred to in clause (1) of Article 30.⁶

About equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State, Article 16 states that no citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of any employment or office under the State, but the Parliament may make any law prescribing, in regard to a class or classes of employment or appointment to an office under the Government of, or any local or other authority within a State or Union territory, any requirement as to residence within that State or Union territory prior to such employment or appointment. It may also make any provision for the reservation of appointments or posts or for reservation in matters of promotion, with consequential seniority, to any class or classes of posts in the services under the State in favour of the Scheduled Castes and the Scheduled Tribes which, in the opinion of the State, are not adequately represented in the services under the State.

The State is empowered to consider any unfilled vacancies of a year which are reserved for being filled up in that year in accordance with any above mentioned provision for reservation as a separate class of vacancies to be filled up in any succeeding year or years and such class of vacancies shall not be considered together with the vacancies of the year in which they are being filled up for determining the ceiling of fifty per cent reservation on total number of vacancies of that year. All this apart, the State can make a law to provide that the incumbent of an office in connection with the affairs of any religious or denominational institution or any member of the governing body thereof shall be a person professing a particular religion or belonging to a particular denomination.

⁶ See below '*right to protect culture and establishment of educational institutions*'.

These provisions are to enable participation of all Indian people, both privileged and underprivileged, in the development of the country as well as in the use of opportunities for individual development.

To strengthen equality, Article 17 of the Constitution abolishes ‘untouchability’ and forbids its practice in any form. The enforcement of any disability arising out of ‘untouchability’ has been declared as an offence punishable in accordance with law. In the following Article 18 it is provided that no title of a military or academic distinction should be conferred by the State and no citizen of India shall accept any title from any foreign State. It is further provided that any citizen of India holding any office of profit or trust under the State cannot, without the consent of the President, accept any title, present, emolument, or office of any kind from or under any foreign State.

Basic Freedoms

With equality a prelude to development is right to basic freedoms which any person should possess to develop and prosper. Article 19 of the Constitution guarantees to all Indian citizens: right—(a) to freedom of speech and expression; (b) to assemble peaceably and without arms; (c) to form associations or unions; (d) to move freely throughout the territory of India; (e) to reside and settle in any part of the territory of India; (g) to practise any profession, or to carry on any occupation, trade or business. The right can be reasonably restricted by the state on grounds of nation’s sovereignty, integrity, security, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of Court, defamation or incitement to an offence.

Fair Sense of Security

To infuse a fair sense of security in the mind of an individual, Article 20 assures that ‘no person can be convicted of any offence except for violation of a law in force at the time of the commission of the act charged as an offence, nor be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of

the commission of the offence'. It prevents double jeopardy saying that 'no person shall be prosecuted and punished for the same offence more than once'. Self-incrimination is also prohibited as Article 20 also says that 'no person accused of any offence shall be compelled to be a witness against himself'.

Right to Life and Personal Liberty as Right to Development

Most important Article of the Constitution is Article 21 which reads that "No person shall be deprived of his life or personal liberty except according to procedure established by law". The judiciary has given a very wide connotation to the expression 'life' and 'personal liberty' to include all the rights together constituting the right to development. In this regard some words from the decision of the Supreme Court of India in *Francis C. Mullin v. Administrator, Union Territory of Delhi*, are noted by way of an example as follows:⁷

[W]hether the right to life is limited only to protection of limb or faculty or does it go further and embrace something more. We think that the right to life includes right to live with human dignity and all that along with it, namely, the bare necessities of life such as *adequate nutrition, clothing and shelter and facilities for reading, writing and expressing oneself in diverse forms, freely moving about and mixing and comingling with fellow human beings*. Of course, the magnitude and content of the components of this right would depend upon the extent of the economic development of the country, but it must in any view of the matter, include right to basic necessities of life and also the right to constitute the bare minimum expression of the human self.

The Supreme Court of India has held several unremunerated rights to fall within the ambit of Article 21 as follows:

- a) 'The right to go abroad.'⁸

⁷ AIR 1981 SC 746.

⁸ *Satwant Singh Sawhney v. Ramarathnam, APO, New Delhi*, AIR 1967 SC 1836.

- b) 'The right to privacy.'⁹
- c) 'The right against solitary confinement.'¹⁰
- d) 'The right against bar fetters.'¹¹
- e) 'The right to legal aid.'¹²
- f) 'The right to speedy trial.'¹³
- g) 'The right against handcuffing.'¹⁴
- h) 'The right against delayed execution.'¹⁵
- i) 'The right against custodial violence.'¹⁶
- j) 'The right against public hanging.'¹⁷
- k) 'The right to doctor's assistance.'¹⁸
- l) 'The right to shelter.'¹⁹
- m) 'The right to know.'²⁰

It may be noted that the Supreme Court in *Bandhua Mukti Morcha v. Union of India*²¹, opined that to live with human dignity and free from exploitation is a fundamental right of everyone in this country assured under Article 21 as interpreted by this Court in *Francis Mullin*.²² This right to live with human dignity in Article 21 derives its life breath from the Directive Principles of State Policy and particularly clauses (e) and (f) of Article 39 and Articles 41 and 42. At

⁹ *Govind v. State of MP*, (1975) 2 SCC 148, relied on *Griswold v. Connecticut*, 381 US, 479.

¹⁰ *Sunil Batra v. Delhi Administration*, (1978) 4 SCC 494.

¹¹ *Charles Sobraj v. Supdt. Central Jail*, [(1978) 4 SCC 104

¹² *M. H. Hoscot v. State of Maharashtra*, (1978) 4 SCC 544.

¹³ *Hussainara Khatun v. Home Secretary, State of Bihar*, (1979) 3 SCR 532.

¹⁴ *Prem Shanker Shukla v. Delhi Administration*, (1980) 3 SCC 526.

¹⁵ *T. V. Vatheeswaran v. State of Tamil Nadu*, AIR 1983 SC 361.

¹⁶ *Shela Barse v. State of Maharashtra*, (1983) 2 SCC 96.

¹⁷ *A. G. of India v. Lachman Devi*, 1996 SC 467.

¹⁸ *Parmanand Katra v. Union of India*, (1989) 4 SCC 268.

¹⁹ *Shantistar builders v. N K Tomate*, (1990) 1 SCC 520.

²⁰ *R. P. Ltd. v. Proprietors of Indian Express, Bombay Pvt. Ltd.*, AIR 1989 SC 190.

²¹ AIR 1984 (1) SC 802.

²² *Supra* note 6.

the least, therefore, *it must include protection of the health and strength of workers, men and women, and of the tender age of children against abuse, opportunities and facilities for children to develop in a healthy manner and in conditions of freedom and dignity educational facilities, just and humane conditions of work and maternity relief.* These are the minimum requirements which must exist in order to enable a person to live with human dignity and *no State has the right to take any action which will deprive a person of the enjoyment of these basic essentials.*

Thus, in these and many more judgments, the Supreme Court of India has held *right to education as a fundamental right.* Here it is apt to mention that *instruction in art and its promotion is a very significant component of education. Absence of state endeavour in this regard tantamounts to violation of fundamental right to education and disrespect to the directive principles of state policy.* Earl Warren, CJ, speaking for the Supreme Court of United States in *Brown v. Board of Education*²³, has tried to bring that wide dimension of the right to education to focus in the following words:

Today, education is perhaps the most important function of State and local governments ... It is required in the performance of our most basic responsibilities.... It is the very foundation of good citizenship. Today it is the principal instrument in awakening the child to cultural values, in preparing him for later professional training and in helping him to adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education.

Since societies have grown more complex now every kind of facility for education must be made available by the State. State itself must take all positive measures necessary for providing education to its citizens. The Supreme Court of United States in *Wisconsin v. Yoder*²⁴, recognised this obligation of the State saying that providing public schools ranks is at the very apex of the function of a State.

²³ 347 US 483 (1954).

²⁴ 406 US 205 (1971).

This observation of the Court gave due legitimacy to the right to education as a basic necessity of life and as one of the activities constituting "the bare minimum expression of human self. In 1984, the Supreme Court of India in *Bandhu Mukti Morcha v. Union of India*²⁵, held that the right to education is implicit in and flows from the right to life. Later, in *Bapuji Education Association v. State*²⁶, Justice Rama Jois held that right to education is an essential attribute of personal liberty. He observed:

[T]he right of an individual to have and/or to impart education is one of the most valuable and sacred rights.

The judge further observed:

Among various types of personal liberties which can be regarded as included in the expression "personal liberty" and in Article 21, education is certainly the foremost.

The question whether a 'right to education' is guaranteed to the people of India under the Constitution was dealt with by the Supreme Court at length in *Mohini Jain v. State of Karnataka*²⁷. The main question in this case related to the admission of Miss Mohini Jain who was selected for MBBS course but was asked to pay a tuition fee of Rs. 60,000 per annum and a capitation fee of four and a half lakhs. The matter after reaching the Court became extraordinarily significant. The Court through Kuldeep Singh J. referred, regarding this issue, to the Preamble of the Constitution which promises to secure to all citizens of India "justice-social economic and political; liberty of thought, expression, belief, faith and worship; equality of status and of opportunity"; and assures dignity of the individual. The Court also referred to the Articles 21, 38, 39(a), 39(f), 41 and 45 of the Constitution as noted below:

Article 21:Protection of life and personal liberty. – No person shall be deprived of his life or personal liberty except according to procedure established by law.

²⁵ See *supra* note 21.

²⁶ AIR 1986 Karnat 119.

²⁷ AIR 1992 SC 1858.

Article 21A [inserted later by 2002 amendment]: *Right to education.*—The state shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may by law determine.

Article 38: State to secure a social order for the promotion of welfare of the people.—(1) The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life.

(2) The State shall, in particular, strive to minimise the inequalities in income, and endeavour to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations.

Article 39: Certain principles of policy to be followed by the State.—The State shall, in particular, direct its policy towards securing -

(a) that the citizen, men and women equally, have the right to an adequate means of livelihood;

(f) that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

Article 41: Right to work, to education and to public assistance in certain cases. —State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.

Article 45: Provision for free and compulsory education for children. —The State shall endeavour to provide , within a period of ten years from the commencement of this Constitution, for free and

compulsory education for all children until they complete the age of fourteen years.

[replaced by 2002 amendment as under-

Provision for early childhood care and education to children below the age of six years. –The State shall endeavour to provide early childhood care and education for all children until they complete the age of six years.]

After a reference to the relevant constitutional provisions, the Court observed that "right to education" had then not as such been guaranteed as fundamental right under Part-III of the Constitution but a reading of the above quoted provisions cumulatively manifested it beyond doubt that the framers of the Constitution made it obligatory for the State to provide education to its citizens. The Court forcefully put forward the view that the Preamble of the Constitution promises to secure to all citizens justice – social, economic and political combining social and economic rights along with political and enforceable/legal rights. In order to establish social justice and to make the masses free in the positive sense the State was to strive to achieve the goals set out in the Preamble of the Constitution. As regards social justice it has been specifically enjoined as an object of the State under Article 38 of the Constitution. The Court raises the question that can the objective which has been so prominently pronounced in the Preamble and Article 38 of the Constitution be achieved without providing education to the large majority of citizens who are illiterate. A dispassionate consideration of the question leads to the conclusion that the objectives flowing from the Preamble of the Constitution cannot be achieved and shall remain on paper unless the people in this country are educated. The Court observed:

The three-pronged justice – social, economic and political, promised by the Preamble is only an illusion to the teeming-millions who are illiterate. It is only the education which equips a citizen to participate in achieving the objectives enshrined in the Preamble.

Bringing to focus another significant aspect of the issue the Court remarked that the Preamble also assures the dignity of the individual and the Constitution seeks to achieve this object by guaranteeing fundamental rights to each individual which he can get enforced, if necessary through Court of law. The directive principles in Part-IV of the Constitution are also with the same objective. The Court made it clear that:

The dignity of man is inviolable. It is the duty of the State to respect and protect the same. It is primarily education which brings forth the dignity of a man. The framers of the Constitution were aware that more than seventy percent of the people, to whom they were giving the Constitution of India, were illiterate. They were also hopeful that within a period of ten years illiteracy would be wiped out from the Country. It was with this hope that Article 41 and 45 were brought in Part-IV of the Constitution. An individual cannot be assured of human dignity unless his personality is developed and the only way to that is to educate him. That is why the Universal Declaration of Human Rights, 1948 emphasises "Education shall be directed to the full development of the human personality....".

Another vital question that was considered by the Apex Court related to recognition of an individual's right "to education" in Article 41 of the Constitution which provides that "the State shall, within the limits of its economic capacity and development, make effective provision for securing the right to education". The Court observed that:

Although a citizen cannot enforce the directive principles contained in Part-IV of the Constitution but these were not intended to be mere pious declarations.

The Court has invoked in support of its argument the following words of Dr. Ambedkar:

In enacting this part of the Constitution, the Assembly is giving certain directions to the future legislature and the future executive to show in what manner they are to exercise the legislative and

the executive power they will have. Surely it is not the intention to introduce in this part these principles as mere pious declarations. It is the intention of the Assembly that in future both the legislature and the executive should not merely pay lip service to these principles but that they should be made the basis of all legislative and executive action that they may be taking hereafter in the matter of the governance of the Country.²⁸

The Court accordingly concluded in this respect as follows:

The directive principles which are fundamental in the governance of the country cannot be isolated from the fundamental rights guaranteed under Part-III. These principles have to be read into the fundamental rights. Both are supplementary to each other. The State is under a constitutional mandate to create conditions in which the fundamental rights guaranteed to the individuals under Part-III could be enjoyed by all. Without making right to education under Article 41 of the Constitution a reality the fundamental rights under Part-III shall remain beyond the reach of large majority which is illiterate.

The Court also beneficially referred to its earlier observation regarding right to live with human dignity and the Directive Principles of the State Policy in *Bandhu Mukhti Morcha v. Union of India*²⁹ as follows:

The right to live with human dignity enshrined in Article 21 derives its life breath from the Directive Principles of State Policy and particularly clauses (e) and (f) of Article 39 and Article 41 and 42 and at the least, therefore, it must include protection of the health and strength of workers, men and women, and the tender age of children against abuse, opportunities and facilities for children to develop in a healthy manner and in conditions of freedom and dignity, educational facilities, just and humble conditions of work and maternity relief. These are the minimum requirements which must exist in order to enable a person to live

²⁸ Constituent Assembly Debates (CAD), Vol. VII, p. 476.

²⁹ *Supra* note 21.

with human dignity and no State—neither the Central Government nor any State Government – has the right to take any action which will deprive a person of the enjoyment of these basic essentials.

After a due consideration of all the above given observations the Court held that the right to education flows directly from the right to life. It said:

Right to life' is the compendious expression for all those rights which the Courts must enforce because they are basic to the dignified enjoyment of life. It extends to the full range of conduct which the individual is free to pursue. The right to education flows directly from right to life. The right to life under Article 21 and the dignity of an individual cannot be assured unless it is accompanied by the right to education. The State Government is under an obligation to make endeavour to provide educational facilities at all levels to its citizens.

The Court continued to observe:

The fundamental rights guaranteed under Part-III of the Constitution of India including the right to freedom of speech and expression and other rights under Article 19 cannot be appreciated and fully enjoyed unless a citizen is educated and is conscious of his individualistic dignity.

The Court then declared:

The "right to education", therefore, is a concomitant to the fundamental rights enshrined under Part-III of the Constitution.

Defining the responsibility of the State regarding the matter the Court held:

The State is under a constitutional mandate to provide educational institutions at all levels for the benefit of the citizens. The educational institutions must function to the best advantage of the citizens.

The basic question whether the Constitution of India guarantees a fundamental right to education to its citizens came again for consideration before the Supreme Court in *Unni Krishnan v. State of A.P.*³⁰ where writ petitions were filed by private educational institutions engaged in imparting medical and engineering education calling in question the *Mohini Jain* judgment. The views expressed by the concerned judges in this case are of great academic and practical significance. The matter was heard by L.M. Sharma, C.J. and S. Ratnavel Pandian, S. Mohan, B.P. Jeevan Reddy and S.P. Bharucha, JJ. The judges delivered three separate judgments each with a novel import. In one of the judgments, Sharma C.J. (for himself and Bharucha, J.) (partly dissenting) said that there is no fundamental right to education for a professional degree that flows from Article 21. As regards the question whether the right to primary education mentioned in Article 45 of the Constitution is a fundamental right or not, Sharma C.J., in view of financial and other implications, left it to be decided in some subsequent case by a larger bench. The other three judges viz., S. Mohan, Jeevan Reddy and S. Ratnavel Pandian upheld the right to education as a fundamental right. S. Mohan, J., in his separate (concurring) judgment, laid much emphasis on the importance of education and held that the State is obliged to provide education to all up to 14 years of age, within the prescribed time-limit. He specially mentioned what poet Valluvar (with his famous *Tirukkural*) said about education:

Learning is excellence of wealth that none destroys; to man
nought else affords reality of joy.

The judge, tracing the nexus between the life, living and education, said that the fundamental purpose of 'education' is the same at all times and in all places. It is to transfigure the human personality into a pattern of perfection through a synthetic process of the development of the body, the enrichment of the mind, the sublimation of the emotions and the illumination of the spirit. Education is a preparation for a living and for life, here and hereafter. Besides in a democratic form of Government which depends for its

³⁰ (1993) 1 SCC 645.

sustenance upon the enlightenment of the populace, education is a social and political necessity. In India, the leaders harped upon universal primary education as a desideratum for national progress but the percentage of illiteracy here is still appalling. In this era of knowledge-explosion when the frontiers of knowledge are enlarging with incredible swiftness it is the foremost need of the State to eradicate illiteracy which persists in a depressing measure.

Again in a very poetic style Mohan, J. explains the need for eradicating illiteracy as follows:

Victories are gained, peace is preserved, progress is achieved, civilisation is built up and history is made not on the battlefield where ghastly murders are committed in the name of patriotism, not in the council chambers where insipid speeches are spun out in the name of debate, not even in factories where are manufactured novel instruments to strangle life, but in educational institutions which are the seed-beds of culture, where children in whose hands quiver the destinies of the future are trained. From their ranks will come out when they grow up statesmen and soldiers, patriots and philosophers, who will determine the progress of the land.

On the basis of all these views Mohan, J. declared “right to education” as a fundamental right of all citizens. Technically he takes it as covered by both the right to personal liberty as well as by the right to life.

In 1962, a Constitution Bench comprising of six learned Judges, in *Kharak Singh v. State of UP*, considered the content of the expression “personal liberty” in Article 21 and Rajagopala Aiyangar, J., speaking for the majority, observed:

We shall now proceed with the examination of the width, scope and content of the expression 'personal liberty' in Article 21. We feel unable to hold that the term was intended to bear only this narrow interpretation but on the other hand consider that personal liberty' is used in the Article as a compendious term

because great concepts like liberty and life were purposefully left to gather meaning from experience. They relate to the whole domain of social and economic fact changing with time. Political, social and economic changes entail the recognition of new rights and the law grows to meet the ever increasing demands of society. There is no person in whom right to life and liberty does not inhere and the same does not need to be provided in the Constitution in positive terms.

Similarly there is no person in whom right to education does not inhere and the same being a part of right to life did not need to be expressly provided in the Part-III of the Constitution. Though in the Constitution the right to education was not stated expressly as a fundamental right the Supreme Court has not followed the rule that unless a right was expressly stated as a fundamental right, it could not be treated so. Freedom of Press is not expressly mentioned, yet it has been read into and inferred from the freedom of speech and expression. Particularly, from Article 21 have sprung up a whole lot of human rights as mentioned above – *right to legal aid and speedy trial, the right to means of livelihood, right to dignity and privacy, right to health, right to pollution-free environment* and so on. In *Express Newspapers v. Union of India*³¹, it was held that the freedom of speech comprehends the freedom of press and the freedom of speech and press are fundamental personal rights of the citizens.

The view that the right to education flows from Article 21 is also supported by what Gajendragadkar, J. observed in the *University of Delhi v. Ram Nath*³², saying that:

The education seeks to build up the personality of the pupil by assisting his physical, intellectual, moral and emotional development.

Article 45 containing the Directive Principles of State Policy, dealing with the policy of education, reads as follows:

³¹ AIR 1958 SC 578.

³² AIR 1963 SC 1873.

Provision for free and compulsory education for children.— The State shall endeavour to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years.

The decisions of the Supreme Court mentioned above have explained the position of the right to education under the Constitution well with reference to its being in Part-IV.

In 2002, notwithstanding above verdicts, the Parliament of India by the Constitution (Eighty Sixth Amendment) Act, 2002 inserted Article 21A in Part-III of the Constitution to expressly make right to education a fundamental right as follows:

21A. *Right to education.*— The State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine.

Article 45 has been substituted by a new provision as follows:

Provision for early childhood care and education to children below the age of six years.— The State shall endeavour to provide early childhood care and education for all children until they complete the age of six years.

Further, one more clause, namely (k) was inserted in Article 51A of the Constitution dealing with Citizens' Fundamental Duties as under:

51A. *Fundamental Duties.*— It shall be the duty of every citizen of India—

....

(k) who is a parent or guardian to provide opportunities for education to his child or, as the case may be, ward between the age of six and fourteen years.

This provision makes right to education expressly a fundamental right of all children from six to fourteen years. The right of the children of less than six years is covered by Article 45 in Directive Principles of State Policy. It would be apt to observe that the judiciary must, in view of the importance of the pre-school education and its earlier verdicts about interface between Part-III and Part-IV of the Constitution, declare right of children below six years of age also a fundamental right and declare studies related to art and craft an essential component of education in view of its future importance for them.

Now the literacy rate has risen from 16.6 percent in 1951 to 74.04 percent according to the 2011 census. Over the last some decades of planned development, rapid growth in facilities has been attempted to provide. The number of educational institutions has more than doubled, while the number of teachers and students has multiplied many times. But despite that yet all Indians have not real access to schools and more than half, as per certain estimates are drop outs. A large percentage of the dropouts are girls, Scheduled Caste and Tribe members and minorities. Poverty is the main cause for keeping children away from the school.

In the international human rights perspective, under Article 26 of the Universal Declaration of Human Rights the following provisions have been made:

- (1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.
- (2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations,

racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

- (3) Parents have a prior right to choose the kind of education that shall be given to their children.

Article 13 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) provides:

1. The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.
2. The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:
 - (a) Primary education shall be compulsory and available free to all;
 - (b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;
 - (c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;

- (d) Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education;
 - (e) The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.
3. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.
4. No part of this Article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph 1 of this Article and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

Both these provisions make education a human right, but indicate that initially ‘studies in art’ and latter ‘instruction in art’ should be a part of curriculum. In their absence the purpose of education would remain incomplete.

As noted above, in 2002, a new Article, namely Article 21A was inserted in the Constitution of India which made free and compulsory education a fundamental right to all children in the age group of six to fourteen years. Pursuant to this amendment, the Parliament enacted *the Right of Children to Free and Compulsory Education Act, 2009* to provide to every child full time elementary education of

satisfactory and equitable quality in a formal school which satisfies the essential requirements and standards as may be necessary.

The right to compulsory education casts an obligation on the appropriate government to provide and ensure admission, attendance and completion of elementary education. It is anchored in the belief that the values of equality, social justice and democracy and the creation of a just and humane society can be achieved only through inclusive elementary education to all. The obligation under the Act is not merely on schools run or supported by the appropriate government but also those not dependent on government funds.

The Right of Children to Free and Compulsory Education Act, 2009 in its Section 3 provides that every child of the age of six to fourteen years shall have a right to free and compulsory education in a *neighbourhood school* till completion of elementary education. For this purpose no child shall be liable to pay any fee or charges or expenses which may prevent him from pursuing and completing the elementary education.

If a child above six years of age has not been admitted in any school or though admitted, could not complete his elementary education, for such children Section 4 of the Act provides that they should be admitted in a class appropriate to his age. Such children should also be given special training as may be necessary and made able to complete their elementary education even if it extends beyond fourteen years of age.

To meet situations of change of place, Section 5 of the Act enables a child to seek transfer from one school to another, either within or outside a state, and claim immediate issuance of transfer certificate. The incharge of the school making delay in issuance of such a certificate is liable for disciplinary action.

Duties have been cast by Section 6 on central and state governments and local authorities to establish schools in areas where they do not already exist, within a period of three years from the commencement of this Act. Section 7 provides for financial and other responsibilities

of the central and state governments and for developing by the central government of a national curriculum and the standards for training of teachers.

Main duties of the appropriate government and local authority under the Act, as enumerated in Section 9 to 11, include providing of all infrastructural facilities, teaching staff and learning equipments, and other related facilities. In providing facilities there should not be any discrimination regarding disadvantaged students. Parents and guardians are also required to admit or cause to be admitted his child or ward for elementary education, in a neighbourhood school. Pre-school education arrangements may also be made by the appropriate government for children between the age of three and six years.

Section 13 of the Act prohibits claiming of capitation fee by any school and any kind of screening procedure for admission. The former is punishable with ten times the amount of capitation fee claim and the later with a fine of Rs. 25, 000/- for first contravention and Rs. 50,000/- for each subsequent contravention. By virtue of Sections 15 to 17 no child can be denied admission for lack of age proof or expiry of the admission period or extended admission period, and no child can be held back in any class or expelled from school till the completion of elementary education or subjected to physical punishment and mental harassment.

The Act contains many more provisions about maintenance of standards of education, duties of teachers, pupil-teacher ratio, curriculum and evaluation procedure, monitoring of right to education by national and state commissions for protection of child rights, redress of grievances and constitution of national and state advisory councils for advising governments on implementation of the provisions of the Act in an effective manner.

Under Section 19, observance of prescribed norms and standards for schools has been made obligatory and a school shall not be established or recognised, unless it fulfils the norms and standards specified in the Schedule. Where a school established before the commencement of this Act does not fulfill the norms and standards

specified in the schedule, it shall take steps to fulfill such norms and standards at its own expenses, within a period of three years from the date of such commencement failing which its recognition can be withdrawn. It is further provided that with effect from date of withdrawal of recognition, no school shall continue to function. Any person who continues to run a school after the recognition is withdrawn, shall be liable to fine which may extend to one lakh rupees and in case of continuing contraventions, to a fine of ten thousand rupees for each day during which such contravention continues.

Section 21 makes the school management committees participatory to include elected representatives of the local authority, parents of guardians of children admitted in such school and teachers. At least three-fourth of members of such Committee should be parents or guardians and that proportionate representation be given to the parents of guardians of children belonging to disadvantaged group and weaker section; fifty per cent. of members of such Committees to be women.

The School Management Committees have to perform the functions of: (a) monitor the work of the school; (b) prepare and recommend school development plan; (c) monitor the utilisation of the grants received from the appropriate government or local authority or any other source; and (d) perform such other functions as may be prescribed.

Under Section 24, the teachers have been made duty bound to: (a) maintain regularity and punctuality in attending school; (b) conduct and complete the curriculum in accordance with the prescribed norms; (c) complete entire curriculum within the specified time; (d) assess the learning ability of each child and accordingly supplement additional instructions, if any, as required; (e) hold regular meetings with parents and guardians and apprise them about the regularity in attendance, ability to learn, progress made in learning and any other relevant information about the child; and (f) perform such other duties as may be prescribed.

Any teacher committing default in performance of these duties is liable to disciplinary action under the service rules applicable. Provided that before taking such disciplinary action, reasonable opportunity of being heard is to be afforded to such teacher.

All the above mentioned provisions of the Right to Free and Compulsory Education Act, 2009 if implemented with sincerity can ensure a literate next generation which can afford to live with dignity without falling prey to exploitation of any kind, especially child labour.

Right against Detention and Hampering Development

To make an environment of development sustain the Constitution also contains provisions about life free from fear of detention. Detention of a person affects development especially when it is maneuvered and motivated as it affects both body and mind of a person along with the whole family. It creates fear in the mind of every common man and results into the denial of dignity. Next in the Constitution is, therefore, the provision to prevent deprivation of life and liberty of a person through detention by state authorities. Article 22 is very comprehensively dealing with matters connected thereto providing: “No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest nor shall he be denied the right to consult, and to be defended by, a legal practitioner of his choice. Every person who is arrested and detained in custody shall be produced before the nearest magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the Court of the magistrate and no such person shall be detained in custody beyond the said period without the authority of a magistrate”. This provision would, however, not apply to an enemy alien; or to any person who is arrested or detained under any law providing for preventive detention. The preventive detention of a person cannot be for a longer period than three months unless—an Advisory Board consisting of persons who are, or have been, or are qualified to be appointed as judges of a high Court has reported

before the expiry of such period that there is sufficient cause for such further detention.

When any person is detained in pursuance of an order made under any law providing for preventive detention, the authority making the order shall, as soon as may be, communicate to such person the grounds, if not against public interest, on which the order has been made and shall afford him the earliest opportunity of making a representation against the order.

Parliament may by law prescribe in certain circumstances detention of more than three months without obtaining the opinion of an Advisory Board.

Right against Exploitation

The Constitution of India enshrines a very important right in Articles 23 and 24 called *Right against exploitation in the form of traffic in human beings, beggar, child labour and other similar forms of forced labour*. Article 23 lays down that *trafficking in human beings and begar and other similar forms of forced labour are prohibited* and any contravention of this provision shall be an offence punishable in accordance with law. However, the State can impose compulsory service for public purposes, and in imposing such service the State shall not make any discrimination on grounds only of religion, race, caste or class or any of them.

Article 24 states that no child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment.

Freedom of Conscience

For the promotion of spirituality and inner conscience of the people the Constitution of India gives to all persons *Right to Freedom of Religion* making them, by Article 25, equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion, of course subject to public order, morality and health and to other fundamental rights guaranteed under this Constitution. The

State can regulate by law any economic, financial, political or any other secular activity which may be associated with religious practice. Article 26 recognises the right of every religious denomination or any section thereof to establish and maintain institutions for religious and charitable purposes; to manage its own affairs in matters of religion; to own and acquire movable and immovable property; and to administer such property in accordance with law subject to public order, morality and health. Pursuant to its secular character, Articles 27 and 28 of the Constitution restrict the State from compelling any person to pay any taxes, appropriated for the promotion or maintenance of any particular religion or religious denomination and prohibit religious instruction in any educational institution wholly maintained out of State funds. If there is any educational institution administered by the State but has been established under any endowment or trust which requires that religious instruction be imparted in such institution no such restriction would apply to that educational institution. Further, any person attending an educational institution recognised by the State or receiving aid out of State funds cannot be required to take part in any religious instruction that may be imparted or to attend any religious worship that may be conducted in such institution or in any premises attached thereto without his or, if such person is a minor, his guardian's consent.

Right to Protect Culture and Establish Educational Institutions

Even *cultural and educational rights* are recognised as fundamental rights in India which are very important for enjoying right to development. Article 29 enables any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own to conserve the same. To seek to attain a pluralistic purpose through law clause (2) of Article 29 prevents denial of admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them.

Very importantly it is to be noted that to enable participation of minority groups in national as well as individual development in the country. Article 30 (1) guarantees to all minorities, whether based on

religion or language, a right to establish and administer educational institutions of their choice. And Article 30 (2) provides that the “State shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion or language”.

Right to Move Supreme Court and High Court on Denial of Rights

To strengthen enjoyment of these rights the Constitution in Article 32 provides for *Right to Constitutional Remedies*—a right to move the Supreme Court by appropriate proceedings for the enforcement of these guaranteed rights and the Supreme Court has the power to issue directions or orders or writs, including writs in the nature of *habeas corpus*, *mandamus*, *prohibition*, *quo warranto* and *certiorari* as may be appropriate, for the enforcement of any of these rights. Under Article 226, every High Court has power, throughout the territories in relation to which it exercises jurisdiction, to issue to any person or authority directions, orders or writs, including writs as Supreme Court may issue for the enforcement of any of the rights conferred by Part-III and for any other purpose. This power to issue directions, orders or writs to any government, authority or person may also be exercised by any high Court within whose jurisdiction area the cause of action, wholly or in part, arises for the exercise of such power, notwithstanding that the seat of such government or authority or the residence of such person is not within those territories. The right so guaranteed is ensured to highly protected, as it cannot be suspended in any way except as provided for by the Constitution itself.

Directive Principles of State Policy as Agenda for Development

Under the directive principles of state policy, various principles have been laid down, which though not enforceable by any Court, “are nevertheless fundamental in the governance of the country and it [is]...the duty of the State to apply these principles in making laws”. Article 38 requires the State to “strive to promote the welfare of the people by securing and protecting as effectively as it may a social

order in which justice, social, economic and political, shall inform all the institutions of the national life”. In particular, the State should “strive to minimise the inequalities in income, and endeavour to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations”. It has been made incumbent by Article 39 on the State to act to the end– (a) that the citizens, men and women equally, have the right to an adequate means of livelihood; (b) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good; (c) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment; (d) that there is equal pay for equal work for both men and women; (e) that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength; (f) that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

It is a vanity to think of justice without an efficient judicial system which delivers justice rather than engages litigants to the benefit of the stronger party. To ensure access to justice for all by the State Article 39A has been inserted in the Constitution which provides that the operation of the legal system promotes justice, on a basis of equal opportunity, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.

For democratic participation of all people in development, Article 40 directs taking of steps to organise village *panchayats* with necessary authority to function as units of self-government. After the working of the Constitution of India for more than 43 years, the people of this country realised that all Human Rights and fundamental freedoms could not be fully realised unless the Institutions are

created at grassroots levels to achieve the objectives contained in Part-IV of the Constitution of India. 73rd and 74th Amendments were made to achieve this object. The Supreme Court rightly noticed as to the status of these constitutional instrumentalities in its judgment in the case of *Abmedabad Municipal Corporation v. Nawab Khan Gulab Khan*³³. In another judgment of Supreme Court in *Air India Statutory Corporation v. United Labour Union*³⁴, it was held that Directive Principles in our Constitution are fore-runners of the UN Convention on right to live as an inalienable human right and every person and all people are entitled to participate in, contribute to and, enjoy economic, social, cultural and political development in which all human rights and fundamental freedoms would be fully realised. For the realisation of this right to development the Institutions of local self-government have been brought to the level of constitutional functionary by 73rd and 74th Amendment Act of the Constitution.

Since 1950 the first task of the people of India should have been the exercise of human rights to development contained in various provisions of the Constitution at all levels allowing an opportunity to people for full participation determining policies at local levels and influencing the decision making showing their actual participation in the process of development for shaping the model of the development of a particular region.

The Eleventh and the Twelfth schedule read with Article 243-G and Article 243-W show that the backwardness of the various regions of this country in economical, social and cultural fields is sought to be removed by empowering people to participate in the preparation of plans for economical development and social justice and by the implementation of directive principles contained in Part-IV of the Constitution which cannot be realised alone on the pattern of 'imposition of schemes' by governments but by maximum use of the right to development by participation in the process of development. India as a developing country has, in order to develop into a

³³ AIR 1997 SC 152.

³⁴ AIR 1997 SC 645.

developed country, honour urge of its all people to participate in its development and also in their own individual development. Any other form of modulating or processing development is destructive of this urge and is devoid of the fruits of development. Thus, the Constitutional sentiment is that the right to development is an inalienable human right by virtue of which every human person and all people are entitled to participate in, contribute to and, enjoy economic, social, cultural and political development.

With the same understanding should some more provisions of the Constitution be read and followed. Article 41 calls for making, within the limits of its economic capacity and development, effective provision for securing the right to work, education and public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want. Article 42, in the same vein, directs that the “State shall make provision for securing just and humane conditions of work and for maternity relief” and Article 43 states that the State shall endeavour to secure, by suitable legislation or economic organisation or in any other way, to all workers, agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities and, in particular, the State shall endeavour to promote cottage industries on an individual or co-operative basis in rural areas. Article 43A provides that the State shall take steps, by suitable legislation or in any other way, to secure the participation of workers in the management of undertakings, establishments or other organisations engaged in any industry. Some other such directives are related to state responsibility for endeavouring:

- a) To provide early childhood care and education for all children until they complete the age of six years.³⁵
- b) To promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes,

³⁵ Article 45.

and shall protect them from social injustice and all forms of exploitation.³⁶

- c) To regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health.³⁷
- d) To organise agriculture and animal husbandry on modern and scientific lines and shall, in particular, take steps for preserving and improving the breeds, and prohibiting the slaughter, of cows and calves and other milch and draught cattle.³⁸
- e) To protect and improve the environment and to safeguard the forests and wild life of the country.³⁹
- f) To protect every monument or place or object of artistic or historic interest, declared by or under law made by Parliament to be of national importance, from spoliation, disfigurement, destruction, removal, disposal or export, as the case may be.⁴⁰

Fundamental Duties with Developmental Impact

Article 51A of the Constitution enumerates eleven duties of citizens which have the effect of developing both the individual as well as the nation. These duties are—

- a) To abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem; to

³⁶ Article 46.

³⁷ Article 47.

³⁸ Article 48.

³⁹ Article 48A.

⁴⁰ Article 49.

cherish and follow the noble ideals which inspired our national struggle for freedom;

- b) To uphold and protect the sovereignty, unity and integrity of India;
- c) To defend the country and render national service when called upon to do so;
- d) To promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities;
- e) To renounce practices derogatory to the dignity of women;
- f) To value and preserve the rich heritage of our composite culture;
- g) To protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures;
- h) To develop the scientific temper, humanism and the spirit of inquiry and reform;
- i) To safeguard public property and to abjure violence;
- j) To strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement;
- k) Who is a parent or guardian to provide opportunities for education to his child or, as the case may be, ward between the age of six and fourteen years.

Institutional mechanism has to be developed to promote duty culture in the country. The practice of honouring the non-performers and the corrupt persons should no more exist. The common man should get a feel and motivation to work for

development and expect appreciation from the nation. A tendency has developed that people close to power centers are encouraged to take some initiatives to get rewarded, but those real initiators and performers are de-motivated and discouraged by authorities who could be real agents of change with sincerity. This practice should change to reap an early harvest of the constitutional provisions envisaging fundamental duties.

Conclusion

As a matter of fact the people of India are in a state of unrest. The constitutional guarantees and the schemes about implementation of the agenda for justice, democracy and development have failed to appeal to the popular sentiment. The reason is the colonial style of successive governments, non-participation of people in decision making and absence of respect for talent of the people because of corruption. There is also an absence of even a proper and sufficient institutional mechanism for ensuring rights to the people who have lived in disarray for centuries now.

The successive governments have been totally oblivious of their constitutional obligation to create and operate institutions which could make possible people's participation in individual, local, national and international development. Governments have bitterly failed in initiating and promoting the process of strengthening people through the institution of local self-government though some claims of women empowerment through reservation in *panchayats* is frequently being made.

If State fails in its duty to appoint the constitutional functionaries and/or permit or enable them to work with true democratic spirit then it cannot be said to be carrying on in accordance with the provisions of the Constitution. It is the duty of the Union of India under Article 355 of the Constitution to ensure that the government of every state is carried on in accordance with the provisions of this Constitution. So far only political considerations are dominating the scene. The working of any government should now be evaluated on

the basis of achievements made as per the requirements of right to development. The situation now is of ‘perform or perish’...!

Besides, all the communities of the country should be equitably associated with the process of governance, development and justice. Any kind of alienation of a community or group can result into conflict, bitterness and disaster.

REPORT ON MUSLIM EDUCATION CONFERENCE IN PUNE

Dr. Malika Mistry

A high profile Muslim Education Conference was organised by Hamid Dalwai Islamic Research Institute on 1st and 2nd December, 2023 at S.M. Joshi Foundation, Pune.

In the Inaugural Session Dr. Abusaleh Shariff, a well-known economist and the Member-Secretary, Sachar Committee, averred that if India wants to become a developed country, it should impart best of the education, useful for future, even to the poorest of the poor. Affordable technical education must be given to all Indians because technology is an equaliser. Further he noted that whatever development has taken place in the last 70 years is undeniably remarkable.

Dr. Sobhan of Shaheen Educational Group, Bangalore, in his presentation stated that in India getting quality teachers is a big problem. Children are attending so many classes that by the end of the day they are so tired that they cannot study well. He wanted to do away with the tuition system to save the children's childhood. So after coming back from U.K. he went for innovations in teaching. How to empower a teacher and how to make a student interested in his studies were two questions he wanted to answer. After doing tremendous research, he started developing books which enable students to prepare right from 6th standard to appear easily for competitive exams and pass with flying colours. Thus, he has been making education relevant and skilled to prosper in life.

Mr. Hussein Dalwai, former M.P. and presently President, Maulana Azad Vichar Manch, opined that Muslims get technical intelligence right from their birth. In the recent tunnel disaster in Himalayas, one Qureshi played a very important role in saving those trapped workers. In Bombay more than 80 percent Muslims live in jhopadpattis. Even though Muslims are deprived in many fields, they live normal lives because of their skills. In Bombay Muslims are as

much as 11.5 percent and Brahmins are only 3 percent of the population. Yet they dominate because Brahmins are educated. Like Brahmins, Muslims should also study so that they can prosper and take India ahead. Every Muslim should see that all his children and Muslims from the entire neighbourhood go to school. In Maharashtra, 75 percent of Muslim children drop out of school. Two and half to three percent children only reach up to graduation level. In Maharashtra Government not a single Muslim secretary was there. In IAS, only five Muslims were there. How many Muslim children are there in Mumbai IIT? Hardly three. Does it mean that Muslim children are not intelligent. No they do not get opportunities. Muslims must have political representation. Then only some change in their situation will come. Also waqf properties must be used for education purposes. Due to discrimination, many scholarships for Muslims have been stopped by the Central Government. Maharashtra Government is planning to give some funding for minority education. He gave an example of a bright young Muslim student who got freeship from a college because of his high score. Now he is doing masters in Europe. He wanted to take a room on rent in a Hindu area. He could not succeed. .

He further observed that among Muslims we have well off Muslims and Dalit Muslims. Today Dalit Muslims die due to communalism but nobody, including well off Muslims, do not talk about it.

He advised that since Muslims are weak and marginalised, they must use Gandhi's method of non-violence and using the framework of constitutional rights, fight for security, reservation and education. Muslims must speak, protest and achieve this goal.

Prof. Shamsul Islam presented many interesting facts from history. For example, Raja Ram Mohan Roy studied at a Madrasa. In the past, non-Brahmin people could not enter Brahmin's schools. So madrasas came into existence and educated non-Muslims too. In Muslim grave-yards, 25 per cent land was kept aside for the burial of Dalits and other marginalised communities.

Muslim contribution to world and India is tremendous. Paper-making was promoted by Muslims. Muslims gave importance to learning and books. Best libraries were founded in Damascus. Hostels were attached to libraries. In Damascus, at Bait-ul-Hikma, scholars from different religions were studying together. Through Islam, Plato's and Aristotle's works were introduced in Europe. In Cairo's library, 1.6 million books/works were stored. In Iraq a library had to be shifted. Its books were carried by 400 camels. Book-binding and tailoring was brought to India by them. Thus, Islam has a great tradition of learning.

When Mughals came to India, they married women from upper caste Hindus. Out of 300 commanders, 150 were Hindus. Aurangzeb's prime minister was a Hindu—Raja Raghavendra Singh.

Both Bhagat Singh and Gramsci promoted learning by studying books. What sort of education should be imparted? It should be such that it would humanise the students and make them into sensitive and ethical human beings,

What about the education of Muslims? No doubt it is in a bad state. In India, we have 14.2 percent of Muslim population. Their share in bank loans is only 2 percent, among jail inmates 30 percent, police force about 7 percent. In UP it is worse. Muslim population is 11 percent but sub-inspectors are 2 percent and constables 3 percent.

Why RSS is against the Muslims? Because 90 percent of the Muslims in India are Dalit converts. Brahmins could neither forgive nor forget this fact.

What is happening to Dalits, tribals and other marginalised communities? When the water is getting polluted, can we really save a particular type of fish in this water? It is same with Muslims. The situation is very disturbing. During the last five years, about a lakh of schools were closed in India. So children from all the communities will miss going to school. Therefore, Muslims must participate in the fight to save Hindu rights. Otherwise Muslims cannot save their rights.

Prof. John Kurrien, a senior educationist, spoke about the present status of Muslim education in India. NSS surveys have revealed that Muslims are the most disadvantaged community and their school enrollment is lower than that of SC/ST. In Navodya and Kendriya Vidyalayas it is worse. Many Muslim students do not study beyond 8th standard. (In NEP 2020, Muslims are totally absent.) Does it mean that Muslims do not want their children to study? No. They want them to study. Circumstances do not allow them. Most Muslims are poor or in lower middle class. They go to government schools where the quality is poor. In fact there is willful negligence on the part of the authorities.

Muslims must get at least 12 years of quality education. What is to be done? (1) Proper data on their educational status must be compiled and published. (2) Like for SC/STs, special schemes must be framed and implemented for Muslims. (3) Education culture must be promoted among Muslims.

Prof. Shaban from the Tata Institute of Social Sciences (TISS) analysed the New Education Policy (NEP). He enlightened the audience on the strengths and weaknesses of the NEP. One risk factor is that NEP talks about massive privatisation of education. Second is that NEP advocates taking finances from the NGOs. Today most of the NGOs are either caste-based or religion-based. Thus, unless the government steps in and invests in higher education, most of the educational institutions will become bankrupt. He advised Muslims to separate religion and capital. Invest in education and development. Take inspiration from Babasaheb Ambedkar and keep adopting to new policies of the government, take advantage and prosper.

Prof. Ranu Jain, an educational sociologist, also from TISS, stated that stereotyping of Muslims does not help their progress. Muslim females do want to study. Due to poverty and deprivation, Muslim children drop out when government schools are privatised. In big slums fear among the minorities is instilled by the vested interests so they do not go outside their localities to study. So madrasas become the option. In some cases it may be worse. In Rafi Nagar a slum in

Mumbai, no primary school exists. So children went to a madrasa. In another Muslim area near Bombay, a Maulvi from a hilly area came and told Prof. Ranu Jain to get them enrolled in a secular school. In Sarvashiksha Abhiyan, madrasas were very helpful in promoting education. Modernisation of Madrasa programme started from Eighth Plan. In Area Intensive Programme, Muslims were not specially mentioned. In Eleventh Plan, both schemes were merged. It did not help the Muslims.

She gave a critique of NEP. In NEP, main asset is only loan to finance education. Which bank will give loans to poor students? It also talks about having one secondary school in 5 km. space. So girls will be deprived of secondary schooling. NEP leads to inequality in resources. NEP does not talk about bridge courses.

What is to be done? We must respond before policies are made and implemented. School closures must be stopped. In fact schools should be taken to girls. Communal harmony needs to be promoted. Communalism, love jihad, mob lynching are all anti-development forces which must be fought against fiercely. Both Kavita Punjabi and Nandini Manjrekar have found that communalism is a destructive force which has negative impact on Muslim education.

On the second day Mrs. Abeda Inamdar, Vice President, MCS, popularly known as Azam Campus, Pune, spoke about the education policies, rights, grants and facilities related to minorities. Mr. Ainul Attar, Ex-Joint Secretary, Minorities Department, Government of Maharashtra explained about the various welfare schemes, problems therein and solutions.

On technical education for Muslims, A.G. Attar, Sangli, Javed Khan, Pune, and Abrar Sayyad from Bombay enlightened the audiences. Muslims should think positive, study the system and adopt it to benefit them. In engineering diploma and degree, hardly 5 to 6 percent Muslim students are found. In fact 30 percent seats are reserved for girls. Also 30 percent scholarships are reserved for girls. Hardly any Muslim girls take advantage of these provisions. In Akkalkot, Maharashtra, Maulana Vasani is educating Muslim boys

free of charge in engineering and medicine. We need to have many more such institutions in our community. Waqf properties should be used for education purposes. As in the past during Prophet's time, today masjid should become the community centre. We need to educate and persuade our maulanas regarding importance of secular education.

In the concluding session, Muslim educationists from different districts spoke about their achievements and problems in promoting Muslim education. Sameer Maniar from Palghar pointed that Muslims in general do not ask for educational projects. Their demands are like renovation of qabristan, etc. Rafiq Shaikh, from Parbhani through his hard work and innovative ways, could educate 2000 students from 3 jhopadpattis. Shahid Shaikh from Pune spoke about the difficulties Urdu medium schools face. In Balbharatai, Maharashtra Government's Text Book Bureau, the vacancies of Urdu Officer and Urdu typist are lying vacant for several years. Some scholarships meant for minorities are stopped. Why?

Ms. Aruna Tiwari, an activist, averred that getting education is a big problem for many vulnerable sections. A strong demand must be made to stop closing of schools. Kutchibano from Waghrai (fishing) Muslim community in Kutch, lamented that their elders do not allow the girls to study and get them married early. Under the guidance of Devendra Sir, this girl studied upto 12th standard with great effort. One girl has gone for nursing. She wants the entire community to be educated. Maulana Ahmed pointed that filling the scholarship forms and uploading documents is a big problem for Muslim students. A participant stated that he opened a credit society to give *Qarz-e-Hasana* (interest free loans) to the Muslim students who have no means to support themselves till the scholarship amount comes.

Prof. Jawdekar concluded that education should be available to all. NEP stands for privatisation, commercialisation and debt. It excludes the poor communities. UNESCO rightly commented (in August 2023) that NEP is in favour of corporates. Government education schemes must be made available to all poor students. In the current scenario, schools, school environment, school text-books,

which are concerns of every student, are going against the minority students.

Mr. Anwar Rajan, President of the conference, commented that education, polarisation, safety and security are all important issues for Muslims. However, Muslim problems cannot be solved in isolation. Muslims should work with other communities and try to solve everybody's issues together. Then only success can be achieved.

REPORTS ON CONFERENCES/ SEMINARS ETC.

IOS lecture on 'Indian Police beyond the reform debate' (July 22, 2023)

An online lecture on 'Indian Police beyond the reform debate', was organised by the Institute of Objective Studies on July 22, 2023. The lecture was delivered by the renowned political scientist, Prof. Ajay Kumar Mehra.

The lecture began with the recitation of a Quranic verse by Hafiz Athar Husain Nadwi.

This was followed by the introduction of the topic and the speaker by the assistant secretary general of the IOS, Prof. Haseena Hashia. She observed that Prof. Mehra was a political scientist by training. He retired in December 2018 as principal of Shaheed Bhagat Singh Evening College, Delhi University. He taught political science at Delhi University for more than three decades. She said that during 2008, he held Ford Foundation professional chair at Dr. K.R. Narayanan Centre for Dalit and Minorities Studies, Jamia Millia Islamia. He was also Atal Bihari Vajpayee Senior Fellow at the Nehru Memorial Museum and Library during 2019-21 for the study of prime ministers of India. Here utilised this period in studying 'India prime ministers: leadership, profiles and institutional transformation'. Besides, he had been a fellow at the University of Maryland, USA for six months in 1991. He was visiting professor at the Maison de Science des I Homme, Paris in 2002, 2003, 2006, 2008 and 2011, 2012 and 2013. He was a member of the expert group on Diversity Index (2008; chair Prof. Amitabh Kundu, JNU), ministry of minority affairs, Government of India.

Prof. Hashia held that Prof. Mehra was a member of the Task Force on Criminal Justice, National Security and Centre-State Cooperation. He had also been associated in various advisory capacities with the Jagaran Lake City University, Bhopal, she said. Briefly highlighting the activities of the IOS, she noted that established in 1986, the

Institute had successfully completed 35 years of its existence with steady progress and fruitful results from the endeavours as a non-political and non-profit organisation. The institute received recognition nationally and internationally for promoting research and conducting surveys on topical themes, publishing books and journals in areas of national concern, and pressing challenges of civil society, awarding scholarships to meritorious university students, besides actively participating in social welfare, educational and management fields, she added.

Delivering the lecture, Prof. Ajay Kumar Mehra observed that police reform had been his major area of interest and he had done a lot of research on the subject. He said that the modern police system was a vestige of our colonial past and the reform in it was missing from the public perspective. Reform in government organisations was a perennial process. Yet, the debate on reforms in the Indian police, which was organised in its present form in 1861 through the Indian Police Act passed by the British Parliament in popular perception began with the constitution by the first National Police Commission chaired by Dharam Vira in 1980. It may be recalled that Vira was an ex-top bureaucrat who also served as the governor of West Bengal. By and large, people might not be aware that M.S. Gore Committee on Police Training was constituted in 1971-73. It was supposed to have picked up pace following the filing of a PIL by Prakash Sing IPS (retired), N.K. Singh, IPS (retired) and H.D. Shourie, IAS (retired) in the Supreme Court to direct the government to initiate the process of police reforms, he commented.

Prof. Mehra maintained that the judgement on the PIL came a decade later when in 2006 the apex court directed the government of India to take steps for police reforms. Since then, four committees were constituted. These were (1) Ribeiro Committee on Police Reforms (1998) (2) Padmanabhaiah Committee on Police Reforms (2000) (3) Group of Ministers on National Security (2000-01) and (4) Malimath Committee on Reforms of Criminal Justice System (2001-03). He said that the first ever Police Commission was constituted by the Government of United Provinces (Uttar Pradesh) in 1947, which submitted its report in 1948. Since the Constitution of India put

police and public order in the state list, it was left to the states to undertake the responsibility. Most of the fourteen states after the reorganisation constituted police commission during the 1960s and 1970s. But neither they generated much debate, nor much reform took place in any state. The debate in reality began when the Morarji Desai – led Janata government (1977-79) constituted Dharam Vira Commission and the country witnessed an all-India police strike in 1979. There was some mindset and the debate on police reforms should be looked at from that point of view. He noted that prior to the enactment of the law by the British parliament, rules made during the period of the Mughal Emperor Shah Alam-II were in force as far as the police functioning was concerned. Police as a law-and-order machinery was recognised after the adoption of the Constitution of India in 1947, he added.

Prof. Mehra remarked that the Janata government was of the opinion that the police had been a tool at the hands of the government. Hence, the need for police reforms keeping in mind the public perception. Referring to the current police establishment, he said that there were charges of corruption against it. It was also true that today the police was placed in a conflict zone due to spurt in the incidence of violence in the North-East and the menace of Naxalism. During the British Raj, police was not created to protect people, but to strengthen district magistrates. In order to reform the police system, the Indian Police Commission of 1902-03, also known as the Frazer Commission, was established by the British government. The Commission was headed by Sir Andrew Frazer and Lord Curzon, and its main goal was to improve the efficiency and effectiveness of the police force in India. Among other things, the Commission recommended a separate training centre for officers and constables. He said that the police reforms commenced with the first police commission, set up soon after the 1857 revolt. Warren Hastings had been credited with initially initiating police reforms, which later took the shape of the Police Act of 1861, upon which the current police system was based, he noted.

Commenting on the Padmanabhaiah Committee on police reforms, Prof. Mehra said that it was set up by the Ministry of Home Affairs,

Government of India. In addition to the Chairman, a former Union Home Secretary, the committee consisted of four members, who were all policemen, two retired and two serving. The committee did not have any representation from other section of society or public. The report was submitted by the committee to the central government in October 2000. He held that the Committee was given too wide a task to be completed in too short a period. It had 12 broad terms of reference, one of which done consisted of 11 specific items. They covered almost all important problems faced as well as caused by the police. He said that the Ribeiro Committee Reforms (1998) was public interest litigation on police reforms. The committee recommended the setting up of Police Performance and Accountability Commissions at the state level and also the constitution of a District Complaints Authority, replacement of the Police Act, 1861 with a new act, he added.

Describing as best the report of the Bihar Police Commission, 1961, Prof. Mehra said that it dealt with several issues of importance to the police system. These included police regulation, employee rules, police training and police administration. Stressing the need for organisational performance and accountability, he noted that the UP's chief minister, Yogi Adityanath initiated some reforms to face the challenges of the rule of law. But, some of the actions of the police drew criticism also. Police role in the Bhima Koregaon close to Pune district of Maharashtra, was such a case. In the same vein, he also stated that police action was taken on the instructions of the chief minister. He disagreed with Yogi Adityanath's blanket order "*Aparadhiyon Ko Thok Diya Jayega*" (Criminals will liquidated). He said that this could not be done under the Constitution. He cited another illustration I which mafia-turned politician, Atiq Ahmad was gunned down by assailants while being taken to the hospital in police custody. He also disapproved of the action of bulldozing houses on one pretext or the other. Citing the case of BJP's Tejinder Pal Singh Begga in which Punjab police team went to his residence in Delhi to arrest him, but was stopped by the Haryana police at Kurukshetra while being taken to Punjab, he said that this was a classic example of the politicisation of police. Police should not be used to subserve political ends. Emphasising the need for setting up micro-level police

stations, he batted for police reforms at that level. Past couple of decades had witnessed complete end of the reform debate. Politicisation, sectarianisation and misuse of police since 2014 had reached new heights, he concluded.

Presiding over the lecture, the secretary general of the IOS, Prof. Z.M. Khan, said that he too belonged to a police family. He held that contextualising of police in India was defective. Since police was a state subject, a lot of differences were bound to occur in eastern and western parts of Uttar Pradesh. NGOs were doing the work of reforms in this area as well. He opined that if police system was weak, it might be politicised. Thus, the area needed to be looked at from that angle too. He observed that the police system could improve if digitisation crept into it. Referring to the living conditions of police personnel, he said that their families lived in barracks. Their living conditions should be improved. Urging the NGOs to take up the issue of police reforms, he said the IOS was one of them to do research on the subject. He also laid stress on more funding for police establishment and reforms for better policing.

Describing the lecture as brilliant and thought-provoking, Prof. Haseena Hashia said that this was the second lecture of the series of police reforms. She called for dishing out the data on cyber-crimes adding that crimes against women had posed new challenges before the police. The lecture concluded with a vote of thanks proposed by her.

**IOS One Day National Conference on “India and G20
Summit: Setting the Agenda for Inclusive Future”
(August 19, 2023)**

A one-day national conference on ‘India and G20: Setting the agenda for inclusive future’, was organised by the Institute of Objective Studies in hybrid mode on August 19, 2023.

Inaugural Session

The inaugural session began with the recitation of a Quranic Verse by Maulana Athar Husain Nadwi of Urdu section of the Institute.

Assistant secretary general of the IOS, Prof. Haseena Hashia, who introduced the theme, said that the summit was a troika at the G-20 because the member holding the rotator presidency every year worked together with its predecessor and the successor, to ensure continuity of the agenda. It was a troika in the sense that the group represented past, present and the future. G20 or Group of 20 was an intergovernmental forum comprising 19 countries and European Union (EU). It worked to address major issues related to the global economy, such as international financial stability, climate change mitigation and sustainable development. She held that the G20 was composed of most of the world’s largest economies, finance ministries, including both industrialised and developing nations. It accounted for around 80 percent of gross word product (GWP), 75% of international trade, two-thirds of the global population and 60 percent of the world’s and area. India’s G20 Sherpa, Amitabh Kant, would lead discussions with the G20 Troika comprising India, Indonesia and Brazil. Sherpa meetings had been held in several cities of India. *Vasudev Kutumbkam* – “One Earth, One Family, One Future” had found resonance across the word because of its encompassing, inclusive message, capturing the diverse global changes of the day, she observed.

Prof. Hashia pointed out that the Sherpas took stock of the progress made in various G20 Sherpa track working groups of the Digital Economy, Health, Education, Tourism, Culture, Agriculture, Trade

and Investment, Employment and Anti-corruption. Delegates at these meetings highlighted the need for women's leadership. They also emphasised the importance of accelerated efforts to return to a path of resilient growth and recovery, she added.

Inaugurating the conference, political scientist and former head of the department of political science, Jamia Millia Islamia, Prof. S.A.M. Pasha remarked that the issue was ever evolving. The G-7 originated from ad-hoc gathering of foreign ministers of industrialised countries in 1973 and had since become a formal, high-profile venue for discussing and coordinating solutions to major global issues, especially in the areas of trade, security, economics and climate change. Each member's head of government or State, along with the European Union's Commission President and European Council President met annually at the G-7 Summit. Representatives of other states and international organisations were often invited as guests. He observed that the United Nations Organisation was most important, though there were a plethora of organisations that were not less important. Agenda for G-20 was very expansive. It ranged from global health to inclusive growth, food security, green development addressing climate change, debt restructuring through the G-20 common framework for debt, strategy for regulation of global crypto currencies, addressing pressing economic and social issues, promoting global economic stability by advocating policies that fostered sustainable economic growth and reducing inequality. This also included addressing global economic imbalances, promoting financial stability and sustainable development. Priorities would include renewable energy, water conservation, clean air and sustainable urban development. Besides, focus would be on digital governance, digital inclusion and innovation for sustainable development, he noted.

Prof. Pasha held that, in addition to world issues, national issues would find place in the discussion at the Summit. Referring to the death due to the Covid-19 pandemic, he said that the figure stood at 40 lakh people which was an extraordinary figure. Politics should be sustainable for sustainable development. But politics denied rule of law as the rule of law was not by the rule of law. Democratic

institutions were being systematically violated. Bulldozer rule of law was not possible anywhere in the world. There should be adherence to constitutionalism, rule of law and the politics of inclusion. He said that the German dictator, Adolf Hitler was most powerful and was elected democratically, but later on he became ruthless without having regard to law. He pleaded that politics should be rooted in justice, human rights, multiculturalism and diversity. He questioned if the sustainable development possible in a situation in which people were fighting ethnically. It was the time people thought collectively. Stressing that the government must give importance to civil society, he said that the development should be inclusive and not exclusive. Referring to the composition of the Lok Sabha, he said that out of the total number of 542 members, 60 percent public representative had criminal background. Commenting on corruption, he said that it was no longer unethical now as it had been institutionalised.

Prof. Pasha pointed out that the minorities were ignored in several fields. This was so in the political field as well. Several parties did not have a single member from the minority community in parliament. The chaos created during the Covid-19 pandemic also led to a situation in which some people, despite possessing money, could not have access to oxygen. This meant that money was not all important. There should be rule of law, not rule by law. Selective application of law was not permissible and everyone would have to remain within the confines of law. He said that the gravity of the current situation in some parts of the country could be understood by the comment of a high court which described it as 'ethnic cleansing'. It was perhaps for the first time that a court had to make such a terse comment on the prevailing atmosphere of fear and insecurity. Touching upon the problem of unemployment, he said that the youth accounted for half of the country's population, but they were without a job. He observed that politics had to be in line with the law. Law had to be supreme and be based on consensus. Big strides had been made in the field of higher education in India, but the country did not figure among the countries with best universities. While best 5-6 universities were located in Israel, Harvard University continued to be the world's best university for the last 150 years. Harvard earned this reputation because it attracted best talent from across the world. According to

an American, if the talent had been properly harnessed, Arabs would have won maximum number of Nobel prizes, he added.

Speaking as the guest of honour, head of the department of biotechnology, University of Kashmir, Prof. Manzoor Ahmad, underlined the emerging role of India as a global health-care player. It was playing its role in the imperatives for healthcare. Many ministries of the government of India were working in the area of healthcare. As many as 38 research institutes were working under the control of CSIR (Council of Scientific and Industrial Research). Besides, there were the ministries of Ayush and Science and Technology were working with the same objectives. Serum Institute of India also provided vaccines to the agencies at cheaper rates. India gave impetus to research and manufacturing of medicines. Thus the country attracted the world's attention towards this feat. India proved its mettle to the world by playing its role in the global healthcare. He said that the country provided medicines to Africa to fight HIV. Indian medicines were heavy in demand due to their being cheapest in South-East Asia. The country was also the cheap medical tourism destination. Medicines, worth more than Rs. 93 thousand crores were exported to the world and earning foreign exchange. With more than 3000 pharma companies, India became the second largest supplier of medicines to the world after China, he noted.

Prof. Manzoor Ahmad maintained that India earned the reputation of providing low cost medicines. It provided medicines for polio, HIV, TB, besides Covid-19. About 175 countries had been supplied with medicines by India. It was estimated that medicines worth 600 billion dollars would be supplied by India to the world by the year 2025. He said that the country had become home to medical tourism because of better medical services, security; etc. Government of India was also promoting medical tourism. India had also become the hub of multiple medical products. And, in terms of affordability, India was the best medical tourism destination among third world countries. He concluded by saying that India supplied anti-malaria vaccines to the United States of America.

Speaking as the guest of honour, former chairman of Janata Cooperative Bank, Delhi and ex-head of the department of commerce, Jamia Millia Islamia, Prof. Abdul Aziz Ansari, said that India's presidency of G-20 would strengthen global friendship and international cooperation in different fields. It would also help boost transparent trade practices and work as a bulwark against trade protectionism. He held that the G-20 Summit offered India an opportunity to showcase its technology. Innovation, research and development, etc., were there to boost economy and inclusiveness, he added.

In his presidential remarks, secretary general of the IOS, Prof. Z.M. Khan, held that the concept of cohesiveness, conditioning and living conformed to the Constitution and the teachings of Quran. Everything should be done to increase cohesion. He warned that the attempt being made to provide grist to the propaganda machinery were very dangerous. Both media and the government were working overtime to provide fodder to the propaganda. If the election was meant to collect Hindu votes, then it could prove disastrous for the country. Several organisations and institutions were expressing happiness over the turn of events. Happenings here are being noticed at the international level. This could benefit the marginalised sections. This might in turn benefit Muslims as well. Referring to the Bhagwa brigade's hypothetical vision for *Akhand Bharat*, he said that if it happened and Pakistan, Afghanistan and Bangladesh was annexed, the total population of Muslims world go up to 75 crore. Describing the concept of G-20 as good, he noted that it existed in villages too. This found echo in the Constitution as well. Whatever happened in Nuh district of Haryana in the recent past was very dangerous. He called for maintaining a balance.

The inaugural session ended with a vote of thanks extended by Prof. Haseena Hashia.

Technical Session-I

The first technical session commenced with the dean, faculty of humanities and languages, JMI, Prof. M. Ishaque being in the chair.

The first speaker was Prof. Nasrin Mujib from the department of education, Aligarh Muslim University. Commenting on the quality of and access to education, she said that several initiatives had been taken by the government to provide education to all. *Sarwa Shiksha Abhiyan* had been launched to give education to all. Referring to education among Muslims, she noted that drop-out rate among them was highest. She held that rapid expansion of digital technology led to the teaching through on-line classes. E-Pathshala was a part of digital education. But, there was a need for professional development and quality education. Quality of teachers was also important. She said that the government was spending substantial amount of money on education. International cooperation, knowledge sharing and exchange of the model of education in other developing and developed countries could also play a role in educational development of the country. Skill development and partnership with other countries could achieve the goal of digital transformation.

Prof. Nasrin Mujib was followed by Prof. Sajjad Ahmad Lone from the department of Electronics and Communication, faculty of engineering, JMI. He remarked that billions of dollars were spent annually on oil import. He said that semiconductor chip was the substitute for oil. Devices had in-built chips and they consumed little power. They were energy and power efficient. Earlier, mobiles took time to connect with communication device. But now there was inside device. Today, mobiles did not function for more than 4-5 years. But now there were long-lasting machines. Referring to semiconductor revolution, he said that the source of silicon was sand which was sourced from deserts. Chips were substitute for new source power. Consumption of chips in India was increasing but unfortunately the production was zero. It started manufacturing chips in Mohali. A laboratory for the purpose was started in Mohali in 1980. India was importing chips as much as oil, he added.

Prof. Shabana Mehfooz of the department of electrical engineering, faculty of engineering, Jamia Millia Islamia said that healthcare was being computed. Healthcare system stood for personal health service being provided to an individual. Services meant personal care, health promotion services, disease prevention, early detection of disease,

social and occupational rehabilitation. Referring to digital transformation, she noted that bio-medical data, autonomous robots system integration, cyber security, cloud computing, additive manufacturing, simulation and augmentation were included in it. Major technologies for healthcare were artificial intelligence analysing, health data, IOT and clone computing—shared use of resources. Explaining the cloud computing, she said that this was the model for enabling ubiquitous, convenient and on-demand network access. Defining virtual meeting, she said that it was not present but seemed to be present. She also explained how cloud computing (ICC) was digitising healthcare.

Head of the department of sociology, Abeda Inamdar Sr. Autonomous College, Pune, Prof. Salma Aziz held that socio-cultural diversities in India were suffering from communal divide. If this continued, it would disturb inclusiveness. The concept of inclusiveness was inherent in the Constitution. She said that multiculturalism promoted pluralism. Cultural diversity should be protected. Multiculturalism minimised tension in society. She observed that multiculturalism had been popular in the West since several decades. It started in New York and spread to Australia and Canada later. Roots of Indian multiculturalism were found during Aryan and Saka times. In 'Discovery of India', Jawaharlal Nehru, described India as a 'multicultural state.' India was a vast country with the diversity of cultures, religions, customs and traditions. 'Sarva Dharma Sambhav (Respect to all religions) had been the hallmark of India's unity in diversity. But, of late, identity crisis of various communities came out in the open. Biases and stereo-typed things in the majority community were on the rise. Islamophobia, mob-lynching, Gharwapsi and love Jihad were dominating the political scene, she remarked.

Dean, faculty of commerce, Abeda Inamdar Sr. Autonomous College, Prof. M.G. Mulla, shed light on G-20 structure and said that India's theme was 'one earth, one family and one culture'. He also explained India's G-20 priorities and the agenda. Then he briefly focused on the expectations from the Summit as far as India was concerned.

In his concluding remarks, Prof. Ishaque said that if one went into the ancient literature, he would find everything revealing. The Qur'an is the ethical foundation of life and joy. The great Tamil literary figure, Subramania Bharathi, too stood for unity among different communities. Ancient Indian literature was full of cultural and social amity, he added.

Technical Session-II

Second technical session was chaired by the former head of the department of educational studies, JMI, Prof. Najma Amin.

Assistant professor of Arabic and cultural Studies, Jawaharlal Nehru University, Dr. Mohammad Ajmal was the first speaker who explained the cultural perspective of G-20 summit. He said that at the instance of the union minister for culture seminars and exhibitions were organised to celebrate India's cultural diversity. Efforts were also made for protection and restoration of cultural property. Antiquities found way back to the country from different countries. He emphasised that cultural working groups should be formed to work towards sustainable practice of embracing living heritage. Culture sector had creative identity worth 36 billion dollars. Thus there was a need to promote social and cultural heritage. He said that G-20 summit was an occasion to showcase cultural property. Cultural heritage was contributory to global economy. Certain Indian food items were so popular that they were prepared and served in other countries. He held that Indian dresses like dhoti and topi could be showcased.

Prof. Shakeel Ahmad Khan from the Institute of Agricultural Research, Pusa, Delhi, said that G-20 would focus on climate change, sustainable development and Indian agriculture, among other things. It would also discuss priorities and the progress in the achievement of 17 goals of sustainable development. It may be recalled that by 2030, 21 targets will have to be achieved. He said that the world community would have to understand climate change in the terms of climate and weather. Greenhouse gases contributed to global warming. It would lead to substantial increase in the temperature of

the earth. There was a division of environmental sciences and about 2000 researches on climate change were going on it. He noted that 14 percent gases were coming from agriculture. Since productivity could not be reduced, there was need to raise food production, he stressed.

Dr. Zewar Hussain Bhat from S.K. Agricultural University, Kashmir observed that Kashmir was the land of beauty and horticulture was its mainstay. Its share in the GDP was 9.5 percent. Annual turnover of horticulture products like, spices, saffron and zeera worked out to Rs. 50 crore. Horticulture industry was rich. There was a university of horticulture which had started commercial production. More and more people were taking to organic farming. Agricultural demonstrations were being organised in which pest control methods figured prominently, he pointed out. Prof. Mohammad Sohrab from MMAJ Academy of International Studies, JMI, spoke on G-20 and contemporary geo-politics and environment. The nomenclature 'global community' could not be construed as had been described by the West. G-20 was comprised of democratic countries to work together in an atmosphere of mutual understanding and cooperation. The group did not have members of NATO (North Atlantic Treaty Organisation) who had vested interests. He said that cultural hegemony of western nations meant their cultural dominance. North Europe was dominating western cultural values. There was duplicity of western countries in dealing with other countries of the third world. In order to furbish their image, they were simply creating media hypes. But the fact of the matter was that the southern part of Europe, Africa and Asia was at the receiving end. There was the monopoly of new production to capture the market. Almost 90 percent global resources were denied to other countries, he remarked.

Last speaker of the session was associate professor at the Centre for Interdisciplinary Research in Basic Sciences, JMI, Dr. Imteyaz Hassan, who focused on climate change impact and sustainable development. He explained how climate change could impact the world and how it could change society. People were suffering from pollution and global warming was affecting agricultural production. Temperature of the earth was rising with every passing year. Human health was also becoming vulnerable with the health system being

affected. He said that high death rate in the areas where air quality was poor had been reported. Sea level was rising and storms surged. Climate change was impacting socio-economic life of the people. He suggested that the solution to the climate change lay in the reduction of carbon emissions, conservation of energy and water, and reduction of greenhouse gases.

Summing up the session, Prof. Najma Amin, described the summit as election-centered. India was focusing on its ancient past in terms of health, medicine and IT. Promotion of Ayurveda, Indian knowledge system – Vedas, holistic system of medicine, etc.; were in the focus. She referred to the meeting recently organised by the ministry of Ayush, government of India in Ahmedabad in which representatives of WHO also participated. Then there was talk of innovation in agricultural economy. She said that the idea of G-20 was conceived in 1966. Referring to the need for peace and harmony on the agenda, she noted that if the West could not ensure peace then how they could do it in India. In this connection, she named USA which was dumping its arms in Ukraine. Similarly, Israel was selling weapons to Germany. This was the election year and inflation had to be checked. War impact, economy, agriculture and climate change were some of the major issues that would be discussed that summit. Climate change was destroying agriculture and Russia-Ukraine war had divided the world into two blocs. She questioned the very concept of *Vasudev Kutumbkam* (world is one family). She said that it sounded sheer hypocrisy when one came to know that a particular community was being targeted everywhere, she added.

Valedictory Session

Speaking as the guest of honour, chief proctor, JMI Prof. Atiqur Rahman said that inclusive meant the whole world. Global warming and climate change were the major challenges before the world. Human needs were unlimited whereas the resources were limited. Global connectivity was essential for faster economic growth. He noted that natural environment was under threat due to climate change. Developing countries were facing unchecked urban growth due to migration of people from villages to cities. He held that there

would be population explosion by 2030. India's material consumption was growing sharply. World was faced with the systematic problem of global warming and sustainability of development. In India, per capita energy consumption was very low. Rise of carbon dioxide led to the increase in global temperature which in turn caused rise in the sea level. Wild fire was also adding to global warming. He said that this year's temperature was hottest in the last 100 years. Global temperature registered phenomenal rise in the last 40 years. Ninety-seven percent scientists agreed that the climate underwent a change in the last 10,000 years. He warned that the world would grapple with water shortage and hunger due to decrease in food production. Growth rate during the first quarter was 6 percent. "We are not looking at the problem, but creating them", he maintained.

In his valedictory speech, former head of the department of computer sciences, JMI, Prof. S.A.M. Rizvi, called for setting agenda for home rather than doing it globally. He said that India should showcase her varied culture and achievement in different fields. He held that India did not require transactional leaders but transformational leaders. India should aim for a long-term strategy. India could showcase her activities only when there was a concrete plan. India was the largest democracy and the population should be created into a human resource. There should be job creation and universities should have nothing to do with the job market. Today, politics had become a profession and the politicians were middlemen. He argued that the institutions, like judiciary and election commission should be made answerable. That was the essence of parliamentary democracy. He held that good work had been done in the field of digital resources. Roads in the country were good and disaster management was worth appreciating. He emphasised the need for working with sensitivity and consciousness.

In his presidential address, Vice-Chairman of the IOS, Prof. M. Afzal Wani, stressed the need for understanding the purpose. Only then could one do something relevant. Climate change and sustainable development were the two most pressing problems that the world had to contend with. India had the potential to contribute 75 percent

of the world's healthcare. He said that the agenda for the summit was not clear in the minds of people. He called for making it sure that India was not responsible for climate change. There should be collaboration at every level. Referring to Article 21 of the Constitution, he said that every citizen was guaranteed protection of life and personal liberty. Financial stability was possible only when the system of justice was fair. Democracy was not the rule by majority, but by the rule of law. No country of G-20 would allow anybody to be killed by a group of people. He remarked that if the scientists knew of the causes of climate change, why they did not come out with the solution to it so far. He observed that India had the potential to become the world leader. India was rich in so many things. She could showcase her culture which was rich and varied. She should look forward. Commenting on the advancement of Artificial Intelligence (AI), he said that the world should be told to limit arms race. India should project the best of what she had. That might be judiciary, education and several other things. He held that India had greatness but she was not showcasing it. Those attending the summit were not a group of themselves, but a group of the whole world. He insisted on showcasing peace, equality and happiness through the rule of law.

At the end of the conference, Prof. Haseena Hashia proposed a vote of thanks to the participants.

**IOS Lecture on “Challenges to National
Integration in Contemporary India”
(August 27, 2023)**

A lecture on “*Challenges to National Integration in Contemporary India*” was organised on August 27, 2023 to coincide with the annual meeting of the General Assembly. Dean, Faculty of Social Sciences, Aligarh Muslim University, Prof. Mirza Asmer Beg delivered the lecture.

Speaking on the subject, Prof. Asmer Beg said that the political parties raised emotive issues to garner votes. Talk of *Dharmik Asmita* (Religious pride) and *Gaurav* (Glory), sounded ultra-active. Political discourse had shifted from real issues to communalism. There was a discourse of silence and the people were attracted to emotive issues. They devised the combination of caste and identity. That was why they gave tickets to those who belonged to the predominant caste. He held that the identity which was being privatised, might lead to disintegration as the citizens were identified with their religion. Instead of having national identity, Indians had communal identity based on gender, religion, caste, etc. Primary identity of a citizen could not be called national identity as national identity was rationalised. Elaborating on the communal identity, he said that when one met his co-regionist, he would open to him and refer to him as his own man. He noted that when one felt that he was doing something for the country it meant that he had national identity. But, when one had national identity, then he had rational identity. Tracing the history of communalism, he said that it did not happen overnight. Earlier also there was communalism. Thus India did not turn to fascism-like sedation all of a sudden, he insisted.

Prof. Beg observed that media and other factors were instrumental in vitiating the atmosphere. Political power created dangerous things. Today’s politics was made more attractive by the speeches that were laced with rhetoric and communal narrative. By these tactics, it became easy to hunt people. In order to justify their actions, superficial measures were taken by the powers-that-be. The problem of communal perception was much deeper than it looked from

outside. They would not let it change because they benefited from it. It was an ugly situation because no real issues were raised in public domain. It was high time for every citizen to think of his responsibility to the republic. In a democracy, he said, citizens played a major role and they should exercise their duty as responsible citizens. Change was imperative and it should come from grassroots level. He said that it is the people who had to decide what to do.

Referring to the scarcity of resources, Prof. Beg pointed out that the new liberal policy was very dangerous. The problem arose due to improper distribution of resources. The US was the richest country of the world but the problem there was also the same. In 1966, the ex-U.S. president Barak Obama's father was kicked out from there. He wanted to know when the countrymen would grow mature to understand things. There was some problem somewhere which led about 14 lakh Indians to leave the country. So far, more than 40 lakh Indians had left the country. He said that the emotive politics by discourse creation was bad and had a limited life span. A community had been ghettoised and that could be understood by the survey conducted in Aligarh recently which revealed that only one percent Muslims visited homes of their Hindu neighbours. So was the case with the Hindus who also did not visit homes of their Muslim neighbours. That was due to the mindset of the people, he concluded.

Presiding over the lecture, Prof. Z.M. Khan observed that life had three aspects – economic, political and social. He said that the economy and sociology were strong even today. No single group could perform a job on its own. It required integration. This equally applied to the social life of India which was impossible without the integration of Hindus and Muslims. Doubts deepened when there was no interaction and communication between the two communities. The idea of inter-community integration should receive proper attention, he stressed.

The programme ended with a vote of thanks extended by Prof. Haseena Hashia.

**IOS-Jamia Hamdard Conference on the “Role of Religious
Diversity in Harnessing Human Values”
(September 12-13, 2023)**

A two-day national conference on the role of ‘Religious Diversity in Harnessing Human Values’ was organised by the Institute of Objective Studies in collaboration with the Department of Islamic Studies, Jamia Hamdard at its convention centre on September 12 and 13, 2023.

Inaugural Session

The Inaugural Session of the conference commenced with the recitation of a Quranic verse by Maulana Adnan Ahmad Nadwi. Prof. Haseena Hashia, Assistant Secretary General of the IOS briefly traced the history of Jamia Hamdard. She also highlighted the activities of the Institute of Objective Studies.

Dr. Mohammed Fazalur Rahman, Assistant Professor, Department of Islamic Studies, Jamia Hamdard in his welcome address said that such initiatives and conferences were meant to promote interfaith ideologues, making India’s diverse culture of accommodation and co-existence a vehicle of peace, harmony and prosperity.

Vice-Chancellor of Jamia Hamdard, *Prof. M. Afsbar Alam*, in his inaugural speech said that India was unique because it was the land of diverse cultures & religions. He further said that human values always remained essential for universal brotherhood, which modern educational institutions, like Jamia Hamdard, brought to the fore for a sustainable society.

In his keynote address, *Prof. M. Afzal Wani*, Vice-Chairman, IOS, *maintained that* religion was a dress for humans. It always awakened people of the world. Nature and true faith spoke volumes about the objectivity factor, which was vital to understand and emphasise, he noted.

Prof. Wani held that all preachers of their respective faiths taught tolerance and kept humanity at par. That was one should dress himself in his chosen faith. One should not undress his faith by mingling it with wrong deeds. All prophets and religious figures became relevant in today's age of technology, as with the technological boom, strengthening faiths could pave the way for a new dawn. Religion should not be made a hateful term. It should portray love and passion, he emphasised.

As the guest of honour former Vice-Chancellor of Maulana Azad University, Jodhpur, and Professor Emeritus of Islamic Studies, *Prof. Akhtarul Wasey*, held that true humanity would be sustained only if the believers of different religions adhered to their core values and at the same juncture they equally respected the faiths of others without hurting others' religious sentiments. India had been the birthplace of many religions; the world's prevalent religions reached this region soon after their inception. Mahavir Jain, Buddha and other famous founders of religions were role models in India, he emphasised.

Dr. M.D. Thomas, Director, Institute of Harmony and Peace, New Delhi, highlighted that religious diversity was a significant area of human creation. It was always pivotal for social and cultural diversity. Another important aspect, which must be understood was that the religion was for human beings, and not the human beings were for religion. Hate, separation mindsets and all other conflicts based on faiths must disappear, while mercy should be inculcated in human lives. The religious leaders and clerics representing different faiths should bring to the fore the realities of current Indian societies plagued with communal disharmony, which could be overcome by initiating inter-faith dialogues, respecting each other's religious sentiments and propagating human values as the core message of every religion, he stressed.

Keshav Murari Das, President of ISKCON Temple, Delhi, emphasised that all humans had one spirit no matter which religious faith one followed. There might be people with different backgrounds or cultural values, but they had one ideology of humanity. Diversity

would always exist, and ultimately, all were one. Life's values were identical in all religions.

Renowned Sikh preacher from New Delhi, Dr. Manpreet Singh, briefly explained the teachings of Guru Nanak. The diversity in Guru Nanak's ideals could be witnessed in this concept that weaker sections of society must be uplifted and scientific temper developed for overall growth. The teachings of Guru Nanak were based on such philosophies of life. Universal brotherhood, love, and justice for all were the core messages of Guru Nanak and that must be spread for global peace.

Former Head, Department of Prakrit Language, Lal Bahadur Shastri Rashtriya Sanskrit Vidyapith, New Delhi, *Prof. Sudeep Jain* shed light on the concept of "humanity". All prophets, irrespective of their preached faiths, taught the humanity to respect and love all.

He emphasised that one needed to introspect how humane he was today. The problems in the country today were not due to religion but religious communalism and bigotry. It was time one ascertained being humane, as it would turn one's life to become successful. First and foremost, one had to be kind and merciful, he insisted.

Another guest of honour was Ven. Geshe Tenzin Damchoe, Lecturer and Coordinator, College for Higher Tibetan Studies, Sarah, Dharamshala. He said that one should remain abreast of how to use and respect others' religions. All human emotions were the same no matter which religious faith one followed. That was what humanity and moral values taught about. He called for always remembering to have faith in one's religion, but equally or more important was respecting others' beliefs as well. That was what humanity and moral values best described because everybody's emotions were the same, but the religions were different, he noted.

In his special address Prof. Hamidullah Marazi, Convener, IOS Forum for Inter-Religious Understanding, laid stress the purpose of religion, which was to dignify human beings rather than demean them. People must develop human values for a dignified life and

respect for others unconditionally. As religion created human values and spirituality, one should be loyal to his faith and always equally respect others' faiths without hurting anyone's sentiments. He said that there was the need for a dialogue and not the deadlock. Unless one knew others' religions, he could not be just and humane in assessing religious sentiments.

In his presidential address Prof. Z.M. Khan, Secretary General, IOS viewed this seminar as essential in multiple ways. He said that the Creator Allah created diversity—so who were others to cause hatred? There was need for love of faith and the love of courage. It would go a long way in sharing the message of humanity and human values, he concluded.

Business Session-I

The first business session focused on the theme, '*Divergent Indian Society and Culture: Emergence of Conflicts and Patterns of Mitigation*'. Dr. Safia Amir, Department of Islamic Studies, Jamia Hamdard was in the chair.

Dr. Vijay Kumar, Associate Professor of Education, Apeejay Satya University, Gurugram, touched upon the topic, '*Imperatives for 21st Century Citizens: Diversity, Human Values & Education*'. He stressed that there was diversity everywhere in the caste, religion, culture, and social backgrounds. Transforming humans into humans with values was the actual worth and expression of diversity. One must ensure the holistic development of cultures and focus on lifelong learning, he added.

Dr. A.K.M. Mahdi Hasan, Lecturer, Department of Sunni Theology, Aliah University, Kolkata, emphasised that the communities were recognised by their unique cultures and ethics. India was a culturally divisive nation where there was unity in diversity and vice versa. Ironically, religions today were used for political gains, which was dangerous.

Dr. Mohammed Fazlur Rahman, Assistant Professor, Department of Islamic Studies, Jamia Hamdard, shed light on the relationships between cultures and religions. He said that in Buddhism, non-violence and human values were remarkable traits. The most important hallmarks of the Buddhism were non-violence and prioritising human values over everything, he noted.

Dr. Mohammad Ajmal, Assistant Professor, School of Language, Literature & Culture Studies, Jawaharlal Nehru University, emphasized that to achieve social objectives, religious tolerance and compassion remained mandatory. Communal harmony played a pivotal role in uniting Indians. That was why ‘education on religion was more important than religious education’.

Sadia Parveen, senior research fellow, Department of Urdu, Delhi University, spoke on ‘*Accommodation of Religious Diversity in India: An Islamic Perspective of Tolerance*’. Her research highlighted conditions and possibilities of religious diversity reflected in innumerable contexts.

Dr. Syed Abdur Rasheed, Assistant Professor and Head, Department of Islamic Studies, Aliah University, Kolkata, dwelt on the cultural diversity for both Hindus and Muslims, especially during the Muslim rulers of India such as Mughals.

Dr. Mubashir V.P., research scholar, Department of Islamic Studies, Jamia Millia Islamia, spoke on ‘*Inter-Religious Diversity in India: Approach for Plural Existence*’. He said that pluralism was interrelated with secularism. While secularism collapsed in the country in the current scenario, its worst impact on pluralism, too, could be ruled out.

Asharuddeen P., student, Department of Islamic Studies, JMI, spoke on ‘*Diversity and Harnessing Human Values: A Qur’anic Perspective with special reference to Malaysia and nearby regions*’. He held that his research explored multiculturalism, which remained the paramount value of Malaysian societies. The study debated *Sharia* laws and conversion-related issues, besides other related religious aspects.

Dr. Mohammed Ahmad Naeemi, Assistant Professor, Department of Islamic Studies, Jamia Hamdard, stressed that it was right time to highlight both Hindu and Islamic religious values to avoid all sorts of religious intolerance. According to Hindu scriptures, care for others was core to the basic values which Islam too stood for. Non-violence was the most significant truth, whereas forgiveness was the tallest of the facts that Hinduism and Islam propagated.

Dr. Mohammed Muslim, Assistant Professor, Department of Islamic Studies, Aligarh Muslim University, explained the concept of '*Tabyin al-Kalam: Foundation of Interfaith Studies for Harnessing Human Values in India*'.

Connected through online mode were Ritash & Tashi Choedup, freelance writers from Bengaluru & Hyderabad, respectively. They threw light on the existence of human diversity and humanness. They stressed that mere acknowledgement of the diversity context would not suffice.

Dr. Mohd Osama, editor, *Nukush-e-Rah*, Islamic Youth Federation, Azamgarh, connected through online mode, raised the question of why religious tolerance and human rights preserving was still a challenge, especially in the Indian context for minorities. He expressed these caveats while speaking on the topic, '*Mazhabi Rawadari aur Insani Aqdar Muhammad bin Qasim ke Daur-e-Hukumat ke Tanazur mein*'.

Dr. Mohammad Teisir Bin Shah Goolfee, teacher, Islamic Cultural College, VDP, Mauritius, spoke on '*Religious Diversity and Human Values: A Study of Abdullah Bin Abdulaziz al-Saud*'. He said that to start a dialogue with others, Muslim nations should come forward to fix their internal problems and errors first. Calling for fighting radicalism, he asked the Muslim leaders to give space to harmony in order to ascertain peaceful coexistence and global prosperity.

The chairperson of the session, Prof. Obaidullah Fahad, former Head of the Department of Islamic Studies, AMU, shared his views on the different research papers presented in the session. He also explained

how a research paper should be drafted to ascertain that it focused on the research analysis and remains balanced.

Business Session-II

The second business session focused on '*Responsibilities and Initiatives of Present Religious Leaders and Institutions in Promoting Inter-Religious Understanding and Spirit of Co-Existence*'. While Prof. Sudeep Jain chaired the session, Dr. Waris Mazhari, Assistant Professor, Department of Islamic Studies, Jamia Hamdard was the co-chair.

Prof. Obaidullah Fahad spoke on the attributes and benefits of the unity of religions. While presenting his views on '*Religious Diversity for Harnessing Human Values in the Qur'an: A Study of Azad, Maududi and Islahi*', he emphasised that the foundations of all religions were the same to sustain human values, but their rituals differed.

Dr. Harpreet Kaur Jass, Associate Professor, Department of Educational Studies, JMI discussed '*Punjabiyyat: Harnessing Human Values in Contemporary Times*'. She said that there was no fixed definition of 'Punjabiyyat'. Punjabi cultural values and traditions existed in both the countries—India and Pakistan.

Dr. Faheem Akhtar Nadwi, Professor, Department of Islamic Studies, MANUU, Hyderabad, spoke on the '*Role of Religious Leaders in Promoting Human Values*'. He emphasised that all religions talked of humanity and none of them talked against human dignity or ill of the contemporary religions.

Dr. Manvinder Singh from the Department of Guru Nanak Studies, Guru Nanak Dev University, Amritsar, spoke on '*Sikh Religion's Perspective about the Religious Diversity of the World*'. He said that Hinduism, Islam and Sikhism offered the message of compassion through various types of charities like *Zakat* and *Langar*.

Md. Munawwar Kamal, research scholar, Department of Islamic Studies, JMI, explained the traits of coexistence and mutual tolerance. He said that accepting everyone's best things and honouring others promoted coexistence in harmony.

Isa Hashmi and Dr. Arshad Hussain, from the Department of Islamic Studies, Jamia Hamdard, focused on '*Human Values and Diversity in Religion*'. Their research was based on human values, human ethics and human morality.

Saba Anjum, research scholar, Department of Islamic Studies, Jamia Hamdard, explained that diverse or diversified societies paved the way for a pluralistic approach. The situation today was of religious conflict, which needed to be rectified, she added.

Dr. Parveen Qamar, Associate Professor, Department of Women Education, MANUU, who joined online, shed light on the multiple factors associated with Sufism.

The other online participant, Zeeshan Ahmad Sheikh, research scholar, Department of Religious Studies, Central University of Kashmir, Anantnag, spoke on religious leaders' role to smoothen the way for religious diversity.

At the end, the chairperson, Dr. Sudeep Jain suggested that religious leaders must project their lives as religious rather than merely focusing on sermons.

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Business Session-III

Prof. M. Afzal Wani chaired the third business session, which focused on the '*Role of Religious Diversity in Harnessing Human Values*'. He held that the laws were introduced to create a spirit of cohesion and fraternity by helping to stop bigotry in the society. But ironically, little positive implementation was witnessed. He said that Islam introduced *Sadqah* as a spirit of philanthropy and sacrifice that helped boost this aspect.

Mohammed Hussain, research scholar, Department of Islamic Studies, Jamia Hamdard, emphasised that today one should come forward to develop religious harmony, especially when the current hatred was plaguing the social fabric. The government should take

measures to sustain human values, thus ensuring all communities to prosper, he said.

Dr. Tanjeel Ahmad, independent researcher at AMU, spoke on '*UCC (Uniform Civil Code) as a Barrier of Religious Diversity Human Values in India: A Discussion within the Framework of the Indian Constitution*'. There was an ardent need to make a committee representing all religious scholars to discuss UCC in detail to arrive at a common place.

Bibi Fatima, research scholar, Department of Islamic Studies, JMI, spoke on '*Impeding Religious Diversity: An Analysis of the Role of Religion and the State in Promoting Human Values*'. She said that religion, in fact, brought cohesion in societies through shared traditional ethics. It was a force and power to empower communities. No religion sanctioned violence and hatred. Historically, religion had always been used as a conflicting force, unlike its message of peace and harmony.

Dr. Mohammad Shafi Bhat, Assistant Professor, Higher Education Department, Government Degree College, Pulwama, connected online, spoke on '*Indian Constitution, Religious Diversity and Human Values*'. He explained the basic features of the Indian Constitution in the context of purpose and diversities.

Dr. Hassan Shareef, Assistant Professor, SAFI Institute of Advanced Study, Malappuram, Kerala, who connected online, spoke on the topic, '*Importance of Studies in Religious Diversity in University Education in India*'. He stressed that religious pluralism and brotherhood for universal unity should be involved in the UG and PG curricula.

The chairperson applauded the researchers for their outstanding presentations. He said that all researchers who presented papers in the session wonderfully carried the theme in their respective research.

Business Session-IV

The fourth business session centered on the '*Role of Judiciary and Religious Texts in Social/ Communal Conflict Resolution*'. Dean, School of Law, Jamia Hamdard, Dr. Saleena K. Basheer chaired the session. Dr.

Mohammad Ahmad Naeemi, Assistant Professor, Department of Islamic Studies, Jamia Hamdard, was the co-chair.

Dr. Mohammed Ayoob Akram, Assistant Professor, K.A Nizami Centre for Quranic Studies, AMU, spoke on '*Quran-e-Majeed mein Maḥabbi Tanawoh ka Tasawwur*'. He underlined an ardent need for understanding such factors broadly. It was high time the communities understood such factors in the context of the Quran and followed religious harmony for human sustenance, he said.

Dr. Kamal Ashraf Qasmi, Assistant Professor, Department of Sunni Theology, Aliah University, spoke on '*Hindu-Muslim Mushtaraka Tahzeeb ki Talash Barae Insaani Aqdar*'. He explained how Hindus and Muslims coexisted in India as part of Indo-Islamic culture. This needed to be researched further.

He further said that the concept of '*Wahi*' (Revelation) existed in both Hinduism and Islam but had different perspectives. Likewise, the 'Afterlife' concept was there in the both. There was no conflict in religions as such as they talk of gods.

Saeeduddin Hamid, research scholar, Department of Islamic Studies, Jamia Hamdard, mentioned that diversity defined a society with different thoughts and practices living together.

Mohd. Asif, research scholar, Department of Islamic Studies, Jamia Hamdard, stressed that societies were incomplete without human dignity.

Amir Fahad, research scholar, Department of Islamic Studies, JMI, dwelt on '*Samaji Tanazat ka Hal Insani Aqdar ke Tahaffuz mein Adlia ki Ahmiyat aur uska Kirdar*'. He held that a society was a collection of humans irrespective of their religious practices or values. Indian culture was diverse. Thus conflicts were bound to happen but not at the cost of diversity.

Joshua Solomon and Shoyeb Khan, research scholars, Department of Educational Studies, JMI, presented their research paper on '*Religious*

Diversity and Social Media Trolling: Women's Experiences and Its Impact on Mental Health'. They highlighted how social media transformed the world today, especially its misuse, like trolling, which was causing concern. Their research found that most participants trolled and harassed for their religious faith encountered depression afterwards. The judiciary must note it and initiate laws that mitigate, regulate, and curb social media trolling, their paper emphasised.

Dr. Javed Akhtar, guest faculty, Department of Islamic Studies, JMI, who connected himself in the online mode, emphasised that human values were always crucial and of paramount importance. But in order to make it possible, equal importance should be given to religious diversity. It was *sine qua non* for a sustainable society, he added.

In her presidential remarks, Dr. Saleena K. Basheer insisted that all religions advocated brotherhood. The need of the hour was to value all faiths, including Hinduism and Islam as both of them respected the ethos of humanity.

Business Session-V

Chaired by Prof. Hamidullah Marazi, co-chaired and moderated by Dr. Najmus Sahar, Assistant Professor, Department of Islamic Studies, Jamia Hamdard, the fifth business session centred on '*Need for Promoting India as a Global Destination with Peaceful Social Environment and Religious Diversity*'.

Prof. Syed Jamaluddin, Director, IOS Centre for Historical and Civilisational Studies, Aligarh, spoke on '*Promoting Inter-Religious Understanding and Spirit of Co-existence—How to Proceed*'. He thoroughly described how the Sufi institutions paved the way for communal harmony in the country for centuries. He said that India was diverse with its rich culture, traditions and religions.

Dr. Sheikh Rahim Mondal, Professor and Founder Head, Department of Anthropology, University of North Bengal, Siliguri, spoke on '*Towards Understanding and Comprehending Cultural and Religious*

Diversities for Harnessing Human Values of Living Together for Creating a Sustainable Society'. Diversities were cultural, linguistic, religious and much more, but the living in diversity united humans, he observed.

Dr. Bakhteyar Ahmad, Assistant Professor, MANUU College of Teacher Education, Asansol, West Bengal, focused on '*Religious Diversity, Modern Schooling and Harnessing of Human Values in Global Context*'. He shared several exceptionally well-researched data on education.

Dr. Abroo Aman Andrabi, Assistant Professor, Department of Islamic Studies, Jamia Hamdard, spoke on '*The Need for Promoting India as a Global Destination with Peaceful Social Environment and Religious Diversity*'.

The Director, Sadbhavana Institute, Catholic Archdiocese, Delhi, Fr. Babu Joseph SVD., mentioned that religious diversity was critical in Indian societies, where all religions must be respected and valued equally. Beliefs and religious institutions had a vital role to play in this.

Suraqua Fahad, research scholar at Delhi School of Social Work, Delhi University, spoke on '*Trauma-Informed Approaches: Nurturing Resilience in Conflict-Affected Populations*'. The ardent need was to create harmony between different religious ideologies.

Farheen Naaz, research scholar, Islamic Studies, JMI, touched upon '*Role of Diverse Religious Traditions in Promoting Human Values and Global Peace*'. She critically explained what religion was all about. She examined the critical objectives of religion and how people perceived it.

Iffat Khatoon, an independent researcher, JMI, spoke on '*Relevance of Inter-Religious Diversity to Foster India as Global Destination*'. She highlighted how diversity was well-defined as the beauty of India. It was the right time to once again assess the importance of secularism besides rectifying the challenges of multiculturalism and religious diversities.

Darakshan Ishrat discussed cultural coexistence in India. Cultural diversity in India, she said, could also be evaluated in the Quranic perspective of pluralism.

Dr. Pooja Sharma, Assistant Professor, Mehr Chand Mahajan DAV College for Women, Chandigarh, connected online, focused on the *'Role of Religious Perspective in Fostering Human Values in the Fine Arts'*. She described how this innovative idea equally united the communities on multiple levels.

Muskan Dixit, research scholar, Institute of Engineering and Technology, Rajpura, Punjab, spoke on *'Unveiling the Power of Religious Diversity in Shaping Computer Science Values'*. She highlighted how technology, especially Information Technology (IT) boom directly impacted the social fabric.

Jamaliah Jamil, consultant, LSA Academic House, Kota Kinabalu, Malaysia, focused on *'The Quran's Universal Values and Harnessing Humanity in India with 700 Years of Al-Andalus Legacy'*. She based her premise on religious intolerance cases in India and Malaysia, causing divisions. Political balance was a must in the global sphere to help sustain humanity.

Rukhsar Parveen, Assistant Professor, Mats University, Raipur, dilated on *'A Study on the Role of Media Persons in Mitigating Divergences and Peacemaking (with special reference to Tweets of Sudhir Chowdhary and Ravish Kumar)'*. She said that the media, as a fourth pillar of democracy, had been constantly losing its credibility due to the irresponsible approach of a select few journalists.

In his presidential remarks, Prof. Hamidullah Marazi appreciated the impactful and highly research-based research works and their meticulous presentation by both online and offline participants.

He said that there was a need to initiate dialogue with the problematic people to develop solutions that should prove worthwhile for human sustenance. There was no alternative to dialogue, and the intelligentsia and social thinkers must come forward

to find a way to bring all communities on the path of human values and social enrichment.

Valedictory Session

Moderated by Dr. Sumayyah Ahmad, Assistant Professor, Department of Islamic Studies, JMI, the valedictory session began with the address of the guest of honour Prof. Rajeev Ranjan Sinha, former Head, Department of Sanskrit Vidya, Sampurnanand Sanskrit University, Varanasi. He observed that all religions were equal. There had always been a need to study comparative religions, but in no way one should treat others' religions as less in value. It was the right time to 'clean the mirror well instead of cleaning the face'. Religion should be interpreted in terms of conscience to uplift humanity. Responsible persons with faith in religions could take societies forward for the betterment of humankind, he concluded.

Prof. Akbar Hussain, Former Head, Department of Psychology, AMU also spoke as guest of honour. He held that believing in the sacredness of religion, the interreligious understanding of Swami Vivekananda, Maulana Maududi and Sri Aurobindo was necessary as these thinkers and philosophers indeed believed in the faith of humanity. He felt the need for establishing a Centre for Interfaith Dialogue to suppress religious fanaticism. Since the human spirit made a person humane and spiritual, such centres would pave the way for human integrity, he stressed.

The Secretary of Inter-Faith Commission, Catholic Archdiocese, Delhi, Fr. Norbert Herman, focused on making religion a uniting force rather than using it as a political tool. Thus efforts should be made to ascertain that humanity prospered and the world became a beautiful place for everybody.

In his valedictory address, former Judge of the Allahabad High Court, Justice Zaki Ullah Khan stressed that all cultures in India maintained harmony for centuries. Religious diversity existed here and must remain in future as well. He concluded with these sentences: 'Respect all without considering their specific religious

faiths'. Whatever one did or the steps took, humanity should always be in consideration.

Dr. M.A. Sikandar, Registrar, Jamia Hamdard read out the 9-point resolution, unanimously adopted at the conclusion of the conference.

The resolution read as —

1. All the people of the world should appreciate significance of the freedom of religion and diversity for every individual and make effort to allow its profession and practice harness human values; without hurting the sentiments of the people of other religions.
2. No individual, group, community or State should attempt to impose any particular religion on any other individual, group or community using any kind of tactics, influence of power or by creating any kind of difficulties for them in following their own faith.
3. People of all religions must understand the standard human values propounded by their religions and bring them manifestly into their practice to fulfill the purpose of good behaviour for which the religions have come into existence.
4. Effort should be made by the responsible members of all religions and the respective States to prevent emergence of violent communal feelings and undesirable happenings through legislation and executive action without discrimination.
5. The judiciaries, all over the world, must take up the task of establishing the best of the standards of preventing communal violence and promoting harmonic approaches and performance.
6. Academicians should take up the task of highlighting the best human values of all religions and produce better

compassionate generations to developing a humane future world.

7. The United Nations should take proactive measures, through its various agencies, for the cause of harnessing human values and for incentivising respect for diversity.
8. Important pillars of democracy like media and protecting agency-police should work to uphold the principles of justice without any discrimination of class, caste, ethnicity etc. These should uphold the standards of preventing communal violence and individual harassment.
9. NGOs and other civil society organisations should adopt different suitable strategies to develop the values of co-existence, tolerance and social harmony.

In his presidential address, Prof. M. Afzal Wani asked how worthwhile the the dialogue for humanity in the current context would be when such efforts had been made in the past as well. It was time to understand contextual factors while discussing religious diversity. Thus concrete and collective efforts be made to ascertain the global of peace.

He recalled the towering role of the late Hakim Abdul Hameed in the field of Unani medicine besides establishing Jamia Hamdard, an institute of eminence. Likewise, another visionary, Dr. M. Manzoor Alam, established the Institute of Objective Studies to offer a platform for scholars and intelligentsia to debate and find rational and objective solutions to many issues faced by Indians in general and the minorities in particular.

Prof. Haseena Hashia proposed a vote of thanks to all dignitaries, guests and audiences whose collective efforts for making the two-day conference a success.

**Mujaddid IOS Centre Discussion on Relevance of Sheikh
Ahmad Sirhindi in Contemporary World
(October 28, 2023)**

A discussion on Mujaddid Alf-Sani Sheikh Ahmad Sirhindi Ki Asri Ma'anwiyat (Relevance of Mujaddid Alf-Sani Sheikh Ahmad Sirhindi in the contemporary world), was organised by the Mujaddid IOS Centre for Arts and Literature online on October 28, 2023.

The webinar commenced with the recitation of a Qur'anic verse by Maulana Asif Jamal Misbahi. The Convenor of the Mujaddid IOS Centre for Arts and Literature, Anjum Naim, welcomed the attendees and briefly highlighted its activities.

Assistant professor of Islamic Studies, Jamia Hamdard, Dr. Waris Mazhari, in his talk said that Mujaddid Alf-Sani's contribution to Islamic philosophy should be examined in the context of his times and the conditions prevailing then. He set an example by working on both the fronts – spread of Islamic teachings and adherence to Qur'an and Hadith with grit and exemplary courage. Besides, he was confronted with the ruling class in order to preserve religious practices conforming to the Shariah. Sheikh Ahmad Sirhindi was an authority on Fiqh and Hadith. His knowledge was encyclopedic and he was endowed with critical insight into the matters of religion, Prof. Mazhari pointed out. Dr. Wahid Nazir observed that the shine and manifestation in the personality of Imam Rabbani Mujaddid Alf-Sani abounded and their significance should be further explored because it was needed more today than ever before. They should be brought into the scholastic domain. He said that today, there was no dearth of scholarship and scholars, nor the lack of resources. But there were stores of knowledge and the affinity was missing. He held that Sheikh Mohaddis trained scholars and dispatched them to far off areas for the revival of true religious practices. He held that if today, someone wanted to work in that direction, whom he should rely on because while *Khaneqahs* (hospices) were producing slaves and the madarsas were manufacturing sycophants. Jamias were reduced to a factory where students held the brief for their teachers, he added.

Sheikh Hasan Saeed Safavi Azhari, held that Mujaddid Alf-Sani had to contend with his own men and others similar to the hardships and opposition faced by the prophets and social reformers of the Ummah. But, he overcame all the hurdles and came out unscathed, Safavi Azhari said. Senior Urdu journalist and writer, Ahmad Javed observed that there were two ways to deal with the rulers who went astray. While one way was to resist the misdemeanors of the ruler, the other was to hold dialogues. The Sheikh preferred the latter and used all the available resources and engaged with the ulema, Sufis, rulers, etc. He saw eye to eye with the rulers and impressed upon the righteous path even at the peril of facing death. But he never shunned the path of righteousness and faced the rulers with courage. He said that the extra-ordinary situation that existed today could be compared to the situation that prevailed during the rule of Akbar and Jahangir. Thus the thoughts, philosophy and the ideas of Sheikh Ahmad Sirhindi were more relevant today than ever before. In today's context when the democracy was in place in India, Muslims needed to learn from Sheikh Sirhindi's Islamic practices, Ahmad Javed concluded.

The occasion was marked by the release of Ahmad Javed's book, *'Imam Rabbani Mujaddid Alf-Sani Sheikh Ahmad Sirhindi'*, published by the Mujaddid IOS Centre for Arts and Literature. Dr. Mohammad Ali briefly spoke on the contents of the book.

In his presidential remarks, Prof. Talha Rizvi 'Barq' said that the every century had a Mujaddid and Sheikh Ahmad Faruqi Sirhindi was the Mujaddid of his century. His message was that if the roots of a tree were strong, its branches would experience both autumn and spring. If the foundation of a building was strong, it could withstand the storm and stood firm. He held that the Holy Book and Sunnah were the foundations of *Deen* (Islamic religion). Lauding the activities of the Centre, he underlined the need for regularly holding such discussions for the benefit of researchers and scholars.

While Syed Ali Rizvi conducted the proceedings, Anjum Naim extended a vote of thanks to the audience.

**IOS Two-Day National Seminar on “Maulana Syed
Mohammad Rabey Hasani Nadwi: Personality, Intellectual
Legacy and Guiding Imprints”
(November 25-26, 2023)**

A two-day national seminar on ‘Maulana Syed Mohammad Rabey Hasani Nadwi: Personality, Intellectual Legacy and Guiding Imprints’ was organized by the Institute of Objective Studies (IOS), New Delhi at its conference hall on November 25 and 26, 2023.

Inaugural Session

The seminar began with the recitation of a verse from the Holy Qur’an by Maulana Adnan Ahmad Nadwi of the IOS. In his on-line inaugural speech, Director, Al-Nadwa Educational Islamic Centre, Canada, Maulana Dr. Saeed Faizee Nadwi, referred to his association with the Maulana spanning over several decades, and said that he benefited from him intellectually. The Maulana was very kind to him and was ever willing to help him on matters arising out of Islamic theology. He held that a big gap had been created by the Maulana’s death which could be filled by Allah only. The services being rendered by the Maulana’s successor, Maulana Syed Bilal Abdul Hai Hasani Nadwi, were very convincing laudable, he observed.

In a message which was read out at the seminar, Maulana Shah Ayetullah Qadri, Sajjadah Nashin, Khaneqah Mujeebia, Phulwari Sharif, Patna, said that the instincts of his utterances and personality were influenced by the training and guidance of Maulana Syed Abul Hasan Ali Nadwi. In fact, he represented Ali Miyan’s intellectual and spiritual life. He was the spiritual son and successor to him in true sense of the term. The influence of Ali Miyan was visibly reflected in his personality. That was the reason the circle of his intellectual and practical life was very wide. The Maulana was the Sheikh of his circle as also the chief of an institution, he added.

In his special address, Amir of Markazi Jamiat Ahle Hadees Hind, Maulana Asghar Ali Imam Mehdi Salafi referred to his association with Maulana Rabey Hasani Nadwi and said that the life of such great

persons inspired the community to seek guidance from them. Their life and work also reminded the Muslims how seriously and responsibly they guided the community. He called upon the Muslims to learn from the life of the Maulana and translate it into their practical life. Another special invitee was the noted Islamic scholar and Professor Emeritus, Department of Islamic Studies, Jamia Millia Islamia, Prof. Akhtarul Wasey, who paying his rich tributes to Maulana Rabey Hasani Nadwi's qualities and his guiding instincts, observed that he worked on the lines of his mentor, Maulana Ali Miyan. He provided leadership to the Ummah till his last breath. It was a matter of satisfaction for every member of the community that its dignity was in secure hands. These hands could never be compromised. He said that the Maulana was the custodian and reflection of the legacy of Syed Ahmad Shaheed and Maulana Ali Miyan. His successor, Maulana Syed Bilal Abdul Hai Hasani Nadwi, the present rector of Nadwa was following in his footsteps, he added.

Speaking as the guest of honour, Rector, Nadwatul Ulema, Lucknow, Maulana Syed Bilal Abdul Hai Hasani Nadwi shed light on the personality and the services of Maulana Rabey Hasani. He said that the important aspect of the Maulana's life and his personality was his humility. He never gave importance to himself and always kept himself away from high offices. But, Allah bestowed on him a great responsibility to head the All India Muslim Personal Law Board. Initially, he refused to be the president of AIMPLB, but the leaders of the Ummah unanimously elected him as chief of the board at its convention despite his absence at the meet. He was persuaded by the stakeholders of the board to take up its stewardship. The same had happened when the question of the rectorship of Nadwa arose. He was unwilling to accept its rectorship. Instead, he suggested the name of Dr. Abdullah Abbas Nadwi for the post. But since Maulana Abdullah Abbas was elder to him, he virtually ordered him to take up the post of rector of Nadwa, Maulana Bilal, said.

Maulana Bilal Nadwi held that Maulana Rabey Hasani was the epitome of extraordinary quality. Besides being a perfect teacher, he commanded respect and popularity among his students. He began his career as a teacher in 1949 and continued to do so till his death

without a break from the classes he took. His lectures on Qur'an used to be very effective. Mostly, he used to teach subjects like language and literature. During the last days of life, he concentrated his lectures on Bukhari Sharif and was deeply immersed into it. Referring to the Maulana's end, he said that on the last day of his life he offered the Zohar prayer without a problem and died before Asar. He said that Maulana Rabey rose after the death of Maulana Ali Miyan like rise of the moon after sunset.

In his presidential remarks, former union minister for minority affairs, K. Rahman Khan paid tribute to the services of Maulana Syed Mohammad Rabey Hasani Nadwi and the leadership he gave to the Muslim community. He said that the Maulana was the senior-most in age among all the Islamic scholars and the ulema. He discharged his responsibilities as the leader of the Millat with grit and courage. In his death, the Islamic world lost a great Islamic scholar and teacher, Rahman Khan concluded.

The occasion was marked by the release of the book, *"Mohaddis Azmi: Shakhsyat, Kamaalat Aur Ilmi Futuhat"*, (written by Prof. Abdur Rahman Momin and) published by the IOS. This book is the collection of the papers presented in a seminar on Mohaddis Azmi Maulana Habib-ur-Rahman Azmi organized by the IOS.

In-charge of Urdu section, IOS, Maulana Shah Ajmal Farooq Nadwi, conducted the proceedings of the session.

Technical Session-I

The first technical session focused on Maulana Syed Mohammad Rabey Hasani Nadwi: His time, development and personality. The session was jointly chaired by Prof. Mohsin Usmani Nadwi, former Dean of English and Foreign Languages University, Hyderabad, Prof. Shafique Ahmad Khan Nadwi, Prof. Mohammad Fahim Akhtar Nadwi and Dr. Md. Arshad. Speaking as a special guest, noted Islamic scholar and researcher, Maulana Noorul Hasan Rashid Kandhalwi, referred to the traits of his personality, and said that it was difficult to reach anywhere near his mannerism and high

character. In this respect, he was ahead of his mentor, Maulana Ali Miyan. Such people of high moral standard could not be easily found today. The life of the Maulana was a lighthouse which enlightened everyone who came into contact with him. His life was an example for others to emulate. Dr. Tabish Mehdi, Chairman, Adabiyat Aliya Academy, presented his paper on various aspects of multi-faceted personality of Maulana Nadwi.

Dr. Kamal Ashraf Qasmi, Assistant Professor, Aliya University, Kolkata spoke on the life and services of Maulana Rabey Hasani Nadwi in the modern context. Maulana Talha Nemat Nadwi of Khuda Bakhsh Library, Patna, focused on Maulana Rabey Hasani Nadwi's thoughts on literature. Mohsin Firoz Azmi, Department of Arabic, Khwaja Moinuddin Chishti Language University, Lucknow, centered his paper on the guiding instincts of Maulana Rabey Hasani Nadwi.

In his presidential remarks, Prof. Mohsin Usmani Nadwi observed that the Maulana was farsighted. Owing to his vision, he played the longest innings as president of the AIMPLB. It was his humbleness that he refused to accept every offer which came his way. More often than not, he did not disclose his personal opinion in order to strengthen the unity of the board. He always maintained a low profile and preferred to take a back seat, Prof. Usmani added.

Technical Session-II

The second technical session, focused on Maulana Syed Mohammad Rabey Hasani Nadwi and Islamic Studies, was chaired by the former Head of the Department of Islamic Studies, Jamia Millia Islamia, Prof. Shafique Ahmad Khan Nadwi. Dr. Shakeel Ahmad, Assistant Professor of Islamic Studies, Maulana Azad National Urdu University, Hyderabad, devoted his paper to the services of Maulana Syed Mohammad Rabey Hasani Nadwi in the promotion of Islamic Studies. Prof. Masud Alam Falahi, Head of the Department of Arabic, Khwaja Moinuddin Chishti Language University, spoke on the services of Maulana Rabey Hasani Nadwi in the promotion and the dissemination of Islamic learning. Dr. Roohnuma Parveen,

research scholar, Department of Islamic Studies, AMU, presented her paper on Syed Muhammad Rabey Hasani Nadwi: A Critical Evaluation on his historic contribution. Raghiba, a Ph.D. scholar at JMI, focused on the concept of equality and religious tolerance in the writings of Maulana Syed Mohammad Rabey Hasani Nadwi. She was followed by the research scholar in Islamic Studies, JMI, Md. Saqib. He spoke on Qur'an, the perfect guide to the human life: A critical analysis'. Md. Munawwar Kamal, research scholar at JMI, centered on 'Maulana Syed Rabey Hasani Nadwi and the Islamic Studies. Zain Hashmi Nadwi, research scholar, JMI, presented the paper on Maulana Mohammad Rabey Hasani Nadwi as profile writer. Nadeem Ashraf, Assistant Professor, Department of Sunni Theology, AMU, spoke on Maulana's contribution to Islamic Studies.

In his presidential remarks, Prof. Shafeeqe Ahmad Khan Nadwi recalled his past-memories and said that the Maulana was the embodiment of the high standard of decency. It was very difficult to reach that level of decency. Besides, he was a successful teacher and an accomplished planner and organizer. He was never heard of using a language that could have hurt others' sentiments. He stressed the need for a detailed discussion on the services rendered by him to Rabta-i-Adab Islami. He drew attention of the Islamic scholar to his suggestion.

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Technical Session-III

The third technical session was devoted to Maulana Syed Mohammad Rabey Hasani Nadwi's educational and journalistic field'. Prof. Md. Fahim Akhtar Nadwi, from Department of Islamic Studies, MANUU, chaired the session. Prof. Syed Rashid Naseem from IFL University, Hyderabad, spoke on Maulana Rabey Hasani's guiding role in the training of society. Dr. Md. Arshad, Assistant Professor of Islamic Studies, JMI, touched upon Maulana Syed Mohammad Rabey Hasani's contemporary sensitivity and the perception of world problems. Dr. Khalid Umri, Assistant Professor of Islamic Studies, JMI, spoke on the re-emergence of Samarqand and Bukhara: A

Study. Md. Shamim Akhtar Qasmi, Assistant Professor, Department of Fiqh Islami, Aliya University, focused on 'Maulana Syed Rabey Hasani's book: *Do Mabeenay America Mein: An analytical study*'. Shaziya Tareen, research scholar, Department of Fiqh Sunni, AMU, spoke on 'Maulana Syed Mohammad Rabey Hasani Nadwi and education and training. Dr. Md. Nasir, Assistant Professor, Department of Sunni Theology, AMU, devoted his paper on Maulana Syed Mohammad Rabey Hasani Nadwi and his book on current affairs and Muslims. Alizah Bano, research scholar, JMI, spoke on Maulana Syed Rabey Hasani Nadwi's views on education and training.

Md. Hassan Khan from Department of Islamic Studies, JMI, focused on 'Words Woven: A Study of Syed Mohammad Rabey's literary legacy'. Shafiq-ur-Rahman, research scholar, Islamic Studies, JMI, spoke on the Arab Island: A critical study. Dr. Ghayasul Islam Siddiqui, Department of Kulliyat (Unani medicine), A & U Tibbia College, threw light on Maulana Syed Mohammad Rabey Hasani Nadwi's journalistic foresight. Md. Ashfaq Alam Nadwi, research scholar, JMI, spoke on Maulana Syed Rabey Hasani Nadwi and education and training.

In his presidential remarks, Prof. Mohammed Fahim Akhtar Nadwi drew attention of the scholars to some important issues. Referring to Maulana Rabey Hasani Nadwi, he said that he was very fortunate to have been his student. He continued to enjoy patronage of the Maulana even after he passed out of Nadwa. Once in an answer to the question, he put to him, the Maulana held that the purpose of education was training. But today, education was linked to employment with the result that the very purpose of education was defeated. He had said that the training and employment were two different things. Both of them should be so planned that one did not overlap the other, he added.

Technical Session-IV

The fourth session was devoted to Maulana Syed Mohammad Rabey Hasani Nadwi: Understanding contemporary issues and guiding imprints. Dr. Mohammad Arshad was in the chair. The first speaker

was Dr. Jamshed Ahmad Nadwi from Department of Arabic, Mumbai University. He presented his paper on Yaadon Ke Charagh: Introduction and analysis. He was followed by Dr. Obaid Iqbal Asim, AMU, who spoke on Current Situation and Muslims: A review. The third speaker was Dr. Nadeem Ashraf, who touched upon Maulana Rabey Hasan Nadwi's term of office as President: A review. He was followed by Saeed Ur Rahman, research scholar from Department of Arabic, Jamia Maulana Azad, Lucknow, who spoke on Maulana Rabey Hasani's ideological persuasion and the Muslim community. The fifth speaker was Dr. Md. Wiqaruddin Latifi, Office-Secretary, AIMPLB, New Delhi. He centred on the fourth President of All India Muslim Personal Law Board: Maulana Syed Rabey Hasani Nadwi's perceptible services. Saif Anwar, research scholar from Department of Islamic Studies, JMI was the sixth speaker, who concentrated on Maulana Rabey Hasani Nadwi and social reform. He was followed by Malik Mahmood, research scholar, JMI, who devoted his paper to Maulana Rabey Hasani Nadwi: Study of religion and the steps taken in action: An analytical study. The last speaker of the session was Md. Sirajul Huda Nadwi from Darul Uloom Sabil Ul Islam, Hyderabad. He spoke on contemporary awareness in Maulana Syed Mohammad Rabey Hasani Nadwi's writings and lectures.

In his presidential remarks, Dr. Mohammad Arshad observed that the services rendered by Maulana Syed Rabey Hasani Nadwi as the President of AIMPLB, were full of wisdom. They should be used for the benefit of the community. They should also be made public in detail. He said the Maulana's writings in Arabic were of high standard. Need for the revision of the Urdu translation of his writings in Arabic was strongly felt. He said that since Maulana Rabey Hasani Nadwi wrote lucid Arabic, his Urdu translation should also be as such.

Valedictory Session

In his valedictory speech, the Secretary of AIMPLB, Maulana Mohammad Umarain Mahfooz Rahmani, said that the life of Maulana Rabey Hasani Nadwi was like a shady tree for the Millat. He held a high position of spirituality and character which was rare. This

position was a gift from Allah who gave it to the chosen few. One of his traits which differentiated him from others was his total immersion into the work he took up. Though this was very difficult, yet the Maulana made it a goal to achieve. That was the reason Allah put love for him into the hearts of the people. He was the epitome of planning and fortitude. In this connection, his statement regarding Babri Masjid was worth mentioning. He had said that if the Babri Masjid case verdict went against Muslims, it might be binding on the Muslims physically. But it would never be acceptable to their hearts, he added.

Presiding over the session, the Chairman of the IOS, Dr. M. Manzoor Alam said that the personality of Maulana Syed Mohammad Rabey Hasani Nadwi was dominated by moderation, equilibrium and prudence. He held that his attachment with the Maulana continued throughout his life. He always patronized him as well as the IOS. When the IOS decided to give Shah Wali Ullah Award to a scholar whose contribution in the field of Islamic Studies was distinctive, consensus emerged on the name of Maulana Syed Rabey Hasani Nadwi. He was selected from a panel of names drawn from across the country. By consenting to accept the award, he only gave respectability to the IOS. He called upon the younger generation to learn from his life and work. The Millat needed to emulate him in their lives because he was distinct.

At the end of the seminar, a 4-point resolution was moved and unanimously passed by the participants. Among other things, the resolution stressed the need for emulating Maulana Rabey Hasani and popularizing his ideas. The Convenor of the seminar, Maulana Shah Ajmal Farooq Nadwi, who conducted the proceedings, proposed a vote of thanks.

**Condolence Meeting on the Demise of
Abdul Qayyum Akhtar, Advocate
(November 30, 2023)**

A condolence meeting to mourn the death of Abdul Qayyum Akhtar, Advocate, founder member of the IOS and General Secretary, All India Milli Council, Rajasthan was jointly organized by the Institute of Objective Studies and the AIMC at the Institute's auditorium on November 30, 2023.

The condolence meet commenced with the recitation of a verse from the Holy Qur'an by Maulana Adnan Nadwi. In his opening remarks, noted Islamic scholar and Professor Emeritus, Islamic Studies, Jamia Millia Islamia, Prof. Akhtarul Wasey said that Abdul Qayyum was actively involved in the affairs of the Millat and led the Muslim community at every level. Acknowledging his services to the community in various capacities, he described him as a multi-faceted personality. He would be remembered for ever for his selfless services and dedication to the cause of Muslim community. He held that Abdul Qayyum was closely associated with the IOS and his closeness to its Chairman, Dr. Mohammad Manzoor Alam brought him closer to the activities of the Institute. His work as General Secretary of Rajasthan unit of the AIMC had been acclaimed by the office-bearers of the body. Besides, he actively participated in several social movements for the cause of the community.

General Secretary of the All India Muslim Personal Law Board, Maulana Fazalur Rahim Mujaddidi, observed that his association with Abdul Qayyum was very old and he knew him since 1955. He was also associated with his father. Assistant Secretary, AIMC, Shaikh Nizamuddin, held that Abdul Qayyum always evinced keen interest in all the projects of the Council. He was second to none in discharging his responsibilities and measured up to the expectations of the Council as its leader. His role in strengthening the Council in Rajasthan could be gauged from the fact that a number of dedicated Muslims joined it and worked for its expansion. Convenor of the Mujaddid IOS Centre for Arts and Literature, Anjum Naim, said that his association with Abdul Qayyum Akhtar was 45-year old.

Whenever he met him, Abdul Qayyum always discussed the issues of Muslims and appeared concerned over them. He served as Chairman of the Rajasthan Waqf Board and played a pivotal role in the setting up of Rajasthan Madarsa Board. He was also the founder-member of the IOS, Muslim Majlis-e-Mushawarat and the All India Milli Council. Anjum Naim said that he played an active role in the *Karwan-i-Azadi* (Caravan of freedom) launched by the Council.

In spite of keeping ill-health, the Chairman of the IOS, Dr. Mohammad Manzoor Alam attended the condolence meeting and paid his rich tributes to Abdul Qayyum Akhtar. He said that Abdul Qayyum Akhtar had much affection for him. He was a very close friend of him. He observed that for him, Abdul Qayyum Akhtar was *Saaniya Ashra Mubashra* (like Companion), if not *Ashra Mubashra* (Companion). He expressed the hope that the team developed by him and worked with him, would devote its time and energy to the growth and longevity of the Tree. It was his fortune that he always came into contact with noble souls. These people extended all cooperation to him and helped the Institute grow step by step. He explained that the IOS was never found wanting in responding to the attacks on Islam. He expressed his gratitude to those who connected Abdul Qayyum to him on phone two days ago. Luckily, the conversation with him was long, he concluded.

Presiding over the condolence meet, the Secretary General of the Institute, Prof. Z.M. Khan pointed out that Abdul Qayyum Akhtar had a very intimate relationship with Dr. Mohammad Manzoor Alam. He was very practical and attached much importance to ground work. He was very deeply associated with the IOS and his suggestions were very useful, Prof. Khan said.

National Vice-President of All India Milli Council, Maulana Anis-ur-Rahman Qasmi, veteran journalist, Maqbool Ahmed Siraj, Vice-Chairman of the IOS, Prof. M. Afzal Wani, Vice-President of the AIMC, Maulana Dr. Yasin Ali Usmani, Dr. Abdul Rasheed Agwan, Mujahid Ali Naqvi, advocate, Danish Akhtar, advocate and Sarvar Alam Atif also spoke on the occasion. While the Assistant Secretary General of the Institute, Prof. Haseena Hashia conducted the

proceedings and thanked the attendees, Maulana Abdullah Tariq offered *dua* for Abdul Qayyum Akhtar's exalted place in *Jannah* at the end of the meet.

**IOS Tribute to Prof. Dr. Syed Khalid Rashid
(December 15, 2023)**

With immense grief and sorrow, Dr. Mohammad Manzoor Alam, Chairman, Institute of Objective Studies, New Delhi, offers his deep condolence on the sad demise of Prof. Dr. Syed Khalid Rashid, who passed away on December 15, 2023 in the morning after a prolonged illness in Malaysia, *Inna lillahi wa inna ilaihi rajewoon!*

Prof. Rashid was a renowned scholar of waqf laws and its management, who always guided and supported me and the Institute, Dr. Alam said.

Prof. Syed Khalid Rashid was deeply associated with the Institute of Objective Studies since its beginning, and extended valuable contributions in waqf-related activities and programmes of the Institute. He authored 6 books on waqf for the Institute.

Born in 1937, and educated at Aligarh Muslim University, Prof. Rashid served as Professor of Law at the International Islamic University, Malaysia for 25 years (1990-2015), had 50 years of research and teaching experience mainly in waqf laws and management in four different universities of Malaysia, Nigeria and India. His publications include 14 books and 88 research papers, out of which 9 books and 27 papers are on waqf laws and its management. He won the Best Researcher Award in Law at International Islamic University, Malaysia during 2004.

In 2011, Islamic Development Bank, Jeddah, Saudi Arabia invited him as a Visiting Scholar (Waqf), and JAWHAR (Prime Minister's Department, Federal Government of Malaysia) appointed him as the Chief Consultant (Waqf) during 2010-11. He was the Founding Director of the International Centre for Waqf Research, IIUM during 2014-15.

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

**IOS Two-Day International Conference on “War, Politics and
Peace in the Globalized World: Looking
for Way Forward”
(December 16-17, 2023)**

A two-day international conference on ‘War, Politics and Peace in the Globalized World: Looking for Way Forward’ was organised by the Institute of Objective Studies in hybrid mode on December 16-17, 2023.

Inaugural Session

The conference commenced with the recitation of a verse from the Holy Qur’an.

Introducing the theme, Convenor and the Vice-Chairman of the IOS, Prof. M. Afzal Wani, said that the thought on peace should be constant and a continuous process. It was due to the thought that the human being dominated the world. But, looking at the two world wars, one found that the world was ridden with conflicts. Wars turned out to be one of the attributes of human being. Though there was the least possibility of reducing wars, every opportunity should be utilized to reduce them.

Inaugurating the conference, intellectual, inventor, telecommunication engineer and entrepreneur based in the United States, Sam Pitroda, deplored that various countries and their leaders were inciting violence in place of peace in a bid to serve their interest and implement their agenda of throwing the world into a new war. It could be very disastrous for humanity and cherishing values of the world. Dreadful wars in Africa and the Middle-East were symptomatic of a phenomenon which was very disturbing. He noted that the situation was very alarming. He held that peace in the world was not possible until the balance of power among influential nations was maintained.

Referring to the information explosion, Sam Pitroda said that it was a content communication and the connectivity of life. Due to hyper

connectivity, change in governance, education, health and humanity was taking place. Communication had commanded hyper-connectivity and exclusion of social groups created a lot of problems in society. These ideas left the world with two wars which were unparalleled in history. In the wake of the Second World War, the United States of America designed the United Nations and other specialized agencies of it. He said that these organizations were created due to hyper-sensitivity. But arms race had not as yet ended as an estimated amount of two billion dollars were being spent on warheads.

Sam Pitroda talked about the crisis of leadership in today's world. These leaders were pigmies. They were a corrupt lot and had their egos. They were not like Gandhi who was truthful and wedded to his commitment. They could not speak against injustice and exploitation. He noted that there was also the crisis of values due to lack of justice and trust. Unfortunately, there was little or no conversation at all on this issue. Then came diversity which made the world diverse in various respects. But, this potential was not being fully tapped. There was a need to exploit diversity for the good of the world. He said that the real war was about the climate change. Global warming was posing a serious challenge to human existence. Then there was the problem of homeless people, besides health issues. Inequality and injustice were other issues which should receive a priority to be addressed. There was also the need to ensure economic parity for the under-privileged. Today, the world needed hyper-connectivity. He concluded that facilities like military establishments were misused.

In his key-note address, former Defence Minister, Bosnia and Herzegovina and Professor at the School of Political Science, University of Sarajevo, Bosnia, Prof. Selmi Cikotic, remarked that there was tension and violence all around the world. The world was ridden with either war or civil war. He said that super powers were responsible for these wars and conflicts in various parts of the world due to their vested interest. When one group declared war on the other, these powers supported one group against the other by helping it by way of arms supplies. Pleading for inter-dependence of countries, he said that this became more important in the present

context for national and international security. Major technological cooperation among SAARC countries was needed for better international understanding. There had been Euro-centric war due to the insane use of military and technology to subjugate a country. Factors that exacerbated hostilities included power of armaments and non-justifiable hierarchy. Referring to his country, he said that she was a mixture of religious and progressive country. The people of the country cherished civilizational and social values.

Prof. Selmi Cikotic stressed the need for Mediterranean alliance of civilizations rather than clash of civilizations. There should be collaboration and alliance of civilizations. Instead of the politics of battle, region, religion, economy and justice should receive more attention. He concluded that there should be no ground for revenge.

Speaking as a special invitee, Director, Institute of Chinese Studies, Delhi and India's former Ambassador to China, Mr. Ashok K. Kantha, referring to Israel-Hamas war, said that the latter was fighting for a rightful cause. Israeli bombing on civilian areas and the denial of food to thousands of people in Gaza was inappropriate. Since India had good relations with all the stakeholders in the area, it supported UN resolution on Palestine. It would promote equity in and nationalism in Gaza area. Though there was transition towards a multipolar world, it was not yet complete. It might be the start of a new cold war there. Fragmentation of global economy was a new phenomenon which could further worsen. He noted that both USA and China could resolve global issues, though this could be a very challenging task.

Mr. Ashok K. Kantha said that the Chinese behavior was distinctive in the region which was guided by its interest internally. Nation-building was the purpose of China which led to the coaxing of others. But India was obliged to work for global peace. Politics, economy and foreign policy were looking towards South and the West. Under the circumstances, how one could suggest for global peace. He questioned the role of global powers in performing their duty fairly. Gameplan of the big powers was to serve their interest by prolonging conflicts. But it was India's duty to keep the people's

interest in view. He called for using India's potential to promote global peace.

Former Member of the Rajya Sabha, Mr. Meem Afzal, deplored that despite the world being civilized, it was haunted by wars. There were wars between Russia and Ukraine and the Israeli war in Gaza. He appealed to the world community to impress upon Israel to stop brutalities on the Palestinians. In order to stop war, rights of Palestinians should be recognized. He said that politics and diplomacy were responsible for war. Politics was at the heart of war and the decision to start and end war was taken by the politicians. The military started war only after it was ordered by the political establishment.

Senior journalist, Dr. John Dayal, observed that Sam Pitroda opened factories of technology and gave chance to capitalism. Children, journalists and women were being killed by Israel in Gaza with the result that about 200 human bodies were rotting there. The United Nations forgot its Charter to protect the life and property of the Palestinians. Israel was a nuclear power and her stubbornness could not be checked. He said that hundreds of people were lynched due to their identity as Muslims.

Social activist, Dr. Ram Puniyani, referring to the current conflict between Israel and Hamas, said that 85 percent land of Palestine was occupied by Israel. He insisted that peace could not be restored without justice. USA had been using its stooges to run government in several parts of the world. There was a war industry in powerful countries which supplied military hardware to combatant nations. With a view to putting a check on wars, he suggested the formation of a world government by the UN with the assistance of other international organizations. He also suggested that there should be an alliance of civilizations to counter clash of civilizations. He held that powerful nations attacked weaker countries. Countries should, therefore, be sensitive to peace at the global level. Majoritarian politics had become the bane of harmony and peace.

Former Vice-Chancellor, Maulana Azad University, Jodhpur and Professor Emeritus, Islamic Studies, Jamia Millia Islamia, Prof. Akhtarul Wasey said that war in itself was a problem as the one who fought war also faced danger. League of Nations was replaced by the United Nations in 1946. But the veto power enjoyed by the members of the Security Council made the world body ineffective. He suggested that veto power should be exercised only if the majority of the members exercised it. Peace was essential for sustained development. He nursed a grouse that instead of connecting the people, politics was only dividing them. He warned that what was happening today could set the world on dangerous course. War had wide ramifications for others as well even if they were not directly connected to it. Big powers waged war to protect themselves. He said that defence industry was flourishing due to the supply of weapons to the warring nations by big powers. He held that peace in the Middle East was not possible without restoring peace in Palestine. He urged the US to impress upon Israel to abide by the Oslo Accord. Today, there was the need for politics of integration as against the politics of division, he added.

Chairman of the IOS, Dr. M. Manzoor Alam, observed that peace could be built on the concept of justice for all. There was no other way than helping others than killing them. If justice was denied on the basis of class, caste, colour and region, peace could not be built. He said that there was a responsibility on the leaders of the world to work for justice for all. Development should benefit all the people of the world. He continued that the whole humanity should in any case not ignore human sufferings under the scourge of wars and the aspiration for peace as a cherished goal for all. The international legal framework for controlling of war prospects and reduction of war atrocities should be strengthened. Issues of justice, economic and political conflicts creating ground for wars in the emerging world should be examined seriously. United Nations should not be allowed to remain in crisis and fail like the League of Nations, he concluded.

Presiding over the session, Secretary General of the IOS, Prof. Z.M. Khan observed that it was very difficult to suggest solution to the problems facing the world. Coming to the home front, he said that

religion was being misused and mobilized to seek votes. Tribals and Adivasis were especially used for the purpose. The outreach of the saffron party did not find support in the South yet. Ultra-rightists engineered riots and engaged poor sections in violence against the minorities. They used weaker sections in their own interest in order to keep them in their fold. They used technology with the same mindset.

On this occasion, two books – *Technology and Youth*, edited by Prof. Haseena Hashia and *Global Trends in Education*, edited by Prof. Shoeb Abdullah, and published by the IOS, were jointly released by those present on the dais. Both the editors highlighted the contents of the books.

Technical Session-I

Chaired by the Ex-Associate Dean, Director and Chairman, School of International Studies, Jawaharlal Nehru University, Prof. Aftab Kamal Pasha, the first technical session focused on perspectives, policies, conflicts and aspirations for peace.

Prof. Dr. Noor Ahmed Baba, former Dean of Social Sciences, Kashmir University and Central University of Kashmir, Srinagar spoke on 'Rethinking War and Violence as an instrument of security in contemporary times. He said that this was a very complex theme. Conflict and confrontation were common to the region. Anarchy had put them into war. It created an order for a population group of people. Growth of knowledge and technology had created a dynamics of power. There were 70 percent casualties in Gaza. It was a challenge to human peace, he noted. Prof. Iqbal Ali Khan from Faculty of Law, Aligarh Muslim University focused on 'War and its effects: As way forward'. He observed that since history, war had affected civilian population in terms of human sufferings. It had had an indelible mark and multi-dimensional impact on humanity. There was the need for holistic approach to war. International organizations failed to stop war. Veto power had defeated the very purpose of UN resolutions. He called for the withdrawal of veto power.

Prof. Arshi Khan from Department of Political Science, Aligarh Muslim University, Aligarh focused on the way forward for world peace. He said that in the 19th century, power became a decisive factor. Referring to the Israel-Hamas war, he suggested that the entire Palestine should be made one state. He also suggested that three-fourths majority of the UN resolution should be there to take action against the erring country.

Prof. Upendra Choudhury from Department of Political Science, AMU centered on 'International politics and security issues in Indo-Pacific'. He maintained that in order to contain China, United States was focused on Indo-Pacific. The concept Indo-Pacific should be inclusive. He said that India stood for all-inclusive approach. Assistant Professor of Political Science, Jamia Hamdard, Dr. Ayan Guha spoke on 'Global Politics and Peace Processes in the world: Between myth and reality'. He held that every state wanted to accumulate power. Every system was anarchical. It was in that context that collective security concept was devised by the UN. He said that security also became a social structure.

Assistant Professor of Law and Political Science, School of Law, Fairfield Institute of Management and Technology, New Delhi, Dr. Manish Yadav focused on 'International Humanitarian Law: Issues and challenges after seven decades'. He commented that Gaza was the largest open jail in the world and the international response and humanitarian assistance had been blocked. Efforts for de-escalation of Israel-Hamas conflict were the need of the hour, he said. Dr. Swati Pandita, Assistant Professor, School of Law, Fairfield Institute of Management and Technology spoke on 'Conceptual Foundations and Working of International Criminal Courts'. She explained that judges of the court had a 7-year term. There were three types of judges and war crimes defined by the Geneva Convention came under its jurisdiction. There was an office of the prosecutor with which cases were registered. The term of the prosecutor was 9 years. Then the cases were investigated and the help of witnesses sought, she said. Senior journalist Iftekhhar Gilani based in Istanbul whose topic was 'Analysis of political factors influencing peace in the contemporary

world'. He could not speak but sent his paper in which he analyzed briefly the factors that influenced peace initiatives in the world.

In his presidential remarks, Prof. Aftab Kamal Pasha said that Israel was defying the appeal of 53 countries to stop war. He held that Israel was uprooting Palestinians and brutalities were perpetrated on them by the Israeli war machinery.

Technical Session-II

Chaired by Prof. Arshi Khan, the second technical session focused on the 'United Nations responsibilities, legal regime for peace'.

Prof. Mohammed Asad Malik from Faculty of Law, Jamia Millia Islamia spoke on 'Critical View of the performance of United Nations Security Council as expected under the UN Charter'. He said that Security Council had a delegated role. Only permanent members could exercise veto power. The UN had the doctrine of collective humanitarian intervention in case of humanitarian crisis, he added. Prof. Khawaja Abdul Muntaqim, human rights expert, New Delhi dwelt on Human Rights, Genocide and working of the Genocide convention. He noted that despite efforts to stop them, genocide, continued to happen. Non-influential institutions proved to be paper tigers. He also referred to environmental injustice. Dr. Mohammad Umar, Associate Professor of Law, Lucknow University said that there was flagrant violation of international criminal law. Geneva Convention, 1949 protected civilians from violence, discrimination, torture and their killings. Outrage of personal dignity of individuals was prohibited, he said.

Dr Amrendra Kumar, Assistant Professor, Faculty of Law, Delhi University spoke on 'Challenges for appropriate implementation of sustainable development goals (SDGS) for universal peace'. He said that the creation of peaceful and inclusive society was on the goals of sustainable development. Other goals included reduction of all kinds of violence, human trafficking and torture, violation of the rule of law, reduction of corruption and bribery in all forms. It also included

non-discriminatory law and policy. He noted that security also became a social structure.

In his presidential remarks, Prof Arshi Khan observed that more than 60 resolutions were passed by the UN General Assembly, but not a single of them was implemented. These resolutions were related to Iraq, Iran, Israel and Afghanistan. In Gaza, rights of the people in occupied areas were violated. More than 115 UN officials were killed there. Besides, several hospitals in the area were bombed, he said.

Day-2 (December 17, 2023)

Technical Session-III

The third technical session was chaired by Prof Mohammad Asad Malik. The session was devoted to 'Laws, institutions and initiatives for mitigation of horrors of war'.

Dr. Amit Gupta, senior adviser on conflict resolution and international security, Forum of Federations, Ottawa, Canada, USAF Air War College, Albania discussed Ukraine, Israel and decline of the Western World Order. He said that in the globalized world, Indian standard of education was not still upto the mark, because Britishers were not there to train Indians. He noted that environment, education and water were three major issues before the country. Dr. Mehnaz Najmi, Adjunct Professor at Taxila American University, Guyana focused on the human cost of Palestine-Israel conflict. Dr. Syed Ali Nawaz Zaidi, Professor, Faculty of Law, AMU spoke on 'Reasons for the failure of League of Nations and the Emergence of the United Nations'. Prof Dr. Anuj Kumar Vaksha from University School of Law and Legal Studies, GGSIP University, Delhi focused on structure, purpose and the role of ICRC in mitigating the horrors of war and war-like situations in present day globalized world.

Dr. M. Kalimullah, Assistant Professor, Faculty of Law, AMU spoke on social and cultural conflicts contributing to breaking out of wars. Dr. Kirti Shinde focused on 'Repercussions of war on women: Special reference to sexual violence against women'. Dr. Subhradipta

Sarkar, Associate Professor, Faculty of Law, JMI spoke on the second Geneva Convention, 1949 for the protection of the wounded, sick and shipwrecked military personnel at sea during war’.

Technical Session-IV

Chaired by Prof. Nuzhat Parveen Khan, Former Dean, Faculty of Law, Jamia Millia Islamia, the fourth session was devoted to agenda for development, peace and related strategies.

The session began with the presentation of the paper on Protocol additional to the Geneva Convention of 12 August, 1949 and relating to the protection of victims of International Armed Conflicts (Protocol), 8 June, 1977. Prof. Mohammad Sohrab from MMAJ Academy of International Studies, JMI spoke on moral imperatives for a just World Order. Dr. Vandana Singh, Associate Professor, University School of Law and Legal Studies, GGSIP University, Delhi devoted her paper to ‘Implementation of Global IPR Agenda for Harmonic Development of Nation States and Strategies for minimization of conflicts’. Dr. Parikshet Sirohi, Senior Professor, Faculty of Law, Delhi University spoke on ‘Reformation of UN for effective implementation of peace agenda in the world’.

Technical Session-V

Prof Ghulam Yazdani, Faculty of Law, JMI was in the chair. The theme of the session was the impact of war on economy, society, health, education and environment.

Dr. Kamar Oniah Kamaruzaman, former Professor of Comparative Religions and Islamic Studies, International Islamic University, Malaysia spoke on ‘Growing new humanity: Global citizens grounded on conscience and compassion’. Dr. Qazi Mohammad Usman, Professor, Faculty of Law, JMI focused on the topic, ‘Role of the World Health Organisation (WHO) during war, or excessive use of force’. Dr. Binish Maryam, Assistant Professor, Nelson Mandela Centre for Peace and Conflict Resolution, JMI devoted to the communal violence and peace process. Dr Zubair Ahmad Khan,

Assistant Professor, University School of Law and Legal Studies, GGSIP University centered on 'Repercussions of wars for environment: Global experiences'. Dr. Syed Iqbal Ahmad from National Law University, Dwarka, Delhi spoke on 'Repercussions of wars for education system: Global experiences'.

Dr Ghazala Sharif, Assistant Professor of Law, Amity University, NOIDA discussed repercussions of war on children: Global experiences. Ms. Sadaf briefly commented on effects of conflicts. Dr. Seema Singh from Law Campus, Delhi University examined the role of the International Court of Justice.

Valedictory Session

In his special address, Prof. Mohammad Tariq from Faculty of Law, AMU said that the United Nations was being dressed down due to its inability to intervene in conflicts in several parts of the world. There were numerous cases in which UN Security Council found itself unable to take effective action due to the veto power used by one of its permanent members to block implementation of the resolution. While one member voted in favour of the resolution, the other member said 'no' to it. Today's war could not be called war because combatants were not on an equal footing. The country which was attacked was not so powerful as to retaliate against the attacker. International laws were flagrantly violated by powerful countries, he added.

Referring to the consequences of the next world, if at all it happened, he said that they would be disastrous for human beings. Going into the causes of a war, he noted that it was the issue of the economy of the developed nations who targeted poor countries. In spite of all this, these countries called themselves civilized. Thousands of people were being killed for nothing. They were completely destroying economy and resources of poor countries. He noted that one of the members of the Security Council was very important. Multipolar power system existed in the world today. He called for the restoration of peace in Palestine.

In her valedictory speech, Prof. Kahkashan Danyal, Dean, Faculty of Law, JMI stressed the need for examining the dynamics of war. She said that in order to respect the international law, Article 15 of the Indian Constitution forbade discrimination on grounds only of religion, race, caste, gender, or place of birth. Commenting on geo-political complexity, she said that open resilience was necessary to soften hardened attitude of nations on different issues. She also laid emphasis on commitment to dialogue to resolve contentious issues. She also explained the factors on which the future of global economy depended. Similarly, socio-economic disparity should be removed in order to ensure equality among all sections. In the age of ever expanding landscape of technology, power of education should be harnessed. Every effort should be made to see to it that peace was not elusive. With a view to raising collective conscience, criticism should be taken seriously, she added.

Dr. Raqeeb Alam, working with the NALSA (National Legal Service Authority), called for promoting sustainable goals of development.

Prof. Hamid Naseem Rafiabadi from Kashmir University, Srinagar, observed that peace had emerged as a new era. He demanded that Asia should be given its right to be a member of the Security Council. Only six members of the Council decided the matter on Africa. He called for giving a chance to Asia and Africa. He also called for favouring countries who were non-combatants. There should be a new mechanism to ensure peace. Instead of allowing to depend more on the West, East should also be given a chance to do something concrete.

Presiding over the session, Prof. M. Afzal Wani, emphasized that thought was very important. Only then action would follow. He said that those who guided the world, had thoughts. One should think of what the war was. He opined that politics was a process by which one loved. It was not a bad thing. Politics was not a crude consideration. He also urged the people to listen to the voice of nature.

At the conclusion of the session, the following 7-point resolution was unanimously adopted by the participants:

1. The United Nations organisation should take the conflicts between nations and non-international conflicts seriously to prevent bloodshed in the world.
2. The world community should realise the needs of the globalising world to establish peace for advancing it forward to attain main objectives of prosperity and peace.
3. The purpose of International Humanitarian Law should be popularised for promoting the policies for least damage caused by hates, conflicts and wars.
4. In conflict regions, the Nation States should be persuaded to have a reconciliatory approach in resolving mutual conflicts and avoid use of force.
5. Ethnic, racial, religious differences should not be allowed to result into hate and bloodshed through use of weapons.
6. Concepts of justice for all should be made part of curriculum in educational institutions and media discussions to change the mindset for achieving better for humanity.
7. Welfare measures should be taken at a larger scale to help the suffering millions due to wars for rehabilitation.

The conference ended with Prof. Haseena Hashia extending a vote of thanks to all the participants of the conference.

**IAMSS-IOS One-Day National Seminar on “Issues and Challenges before Minorities in India”
(December 30, 2023)**

A one-day national seminar on “Issues and Challenges before Minorities in India” was jointly organised by the Indian Association for Muslim Social Scientists (IAMSS), Western Zone, Institute of Objective Studies, New Delhi, and Muslim Chamber of Commerce and Industries (MCCI) Pune, on December 30, 2023 at the YMCA Conference Hall, Pune.

Inaugural Session

The Convener of the seminar, Prof. Moinuddin Khan, in his opening remarks, briefly threw light on the purpose of holding the seminar and the challenges before the minorities, especially the Muslims. In his welcome address, Organising Secretary of the seminar and the President of the IAMSS (Western Zone), Prof. Shakeel Ahmad said that the Muslim community was still lacking in education and its economic plight had not improved yet. He also expressed his sincere thanks and gratitude to Dr. M. Manzoor Alam, Chairman of the IOS, for giving his approval to start IAMSS, Western Zone at Pune. Therefore, it became possible to organize the above seminar at Pune. The Assistant Secretary General of the IOS, Prof. Haseena Hashia remarked that the IOS was seized of the problems faced by the community. Keeping this in view, the Institute was consistently studying the contours of the problem by undertaking research and holding seminars and symposia. She said that the IOS had churned out important data on the economic backwardness of Muslims.

The Secretary of Dnyanoday Prashikshan Sevabhavi Sanstha (DPSS), Mr. Shailesh G. Mehta, emphasised that India was home to many religious groups. Noticeable gaps between many religious groups and minorities in education, employment and economic opportunities existed. He further said that security and safety were the rights of everyone. Diversity must be promoted to showcase India’s plural society. Inclusivity was the necessity and the right of every citizen. He called for celebrating this diversity.

Well-known political scientist, writer, researcher, thinker from the School of Development Studies, Tata Institute of Social Sciences (TISS), Prof. Ashwani Kumar, delivered the key-note address. He gave many thought-provoking ideas about syncretic India. He said that India was made of migrants from time to time from Egypt, Greece, Arabia, Mediterranean and many other places from all over the world. Every fifth person in India was a minority. Muslims were the biggest minority. Thus India was a land of minorities. National movement for freedom by Mahatma Gandhi and Jawaharlal Nehru realized this diversity. India was like a salad bowl in which every group remained intact and unique. India had a syncretic culture. He maintained that the idea of India being a nation of minorities, saved India.

Prof. Ashwani Kumar observed that India was a nation of nations. Only 4 percent of India faced violence. Ninety-six percent was peaceful. Ethnic identities, regional identities and religious identities were used by politicians to bring strife. A study of our history and civilization revealed that we never had polarization. According to Asutosh Varshney, India had ethnic violence, but there was dialogue. He said that the Constitution gave rights to minorities. Baba Saheb Ambedkar laid emphasis on civil identity. In the eye of the Constitution everybody was equal. Article 29 and 30 gave protection to all linguistic and cultural minorities. Dr. Ambedkar purposely kept the meaning of the minority ambiguous. This enabled India to remain together.

Prof. Kumar noted that the minorities in the present time were facing many challenges. Sachar Committee spoke about the exclusion of minorities. Muslim participation in public employment was poor. In view of this, more inclusive policies for them were necessary. Muslim youth was desperate for employment. He said that a nation could not be built with a large number of unemployed youth. Muslim community was churning and within the community, more democratization was taking place. “All of us are minorities in our own way and in our own religion”, he said

Prof. Ashwani Kumar held that Indian culture was the culture of melting pot. Nehru had dreamed of unity in diversity. Amrita Pritam often invoked Waris Shah. Today too, India needed Waris Shah. Ambedkar never standardized belief systems. Gandhi was fascinated by Urdu. This language had words from Persian, Hindi and written in Arabic script. Urdu was a fine example of India and was Indian. India was both geographical and spiritual. It continued to flow like a river uninterrupted. India was largely self-regulated and integrated. India remained an oasis of peace and largely autonomous, he added.

President of the Muslim Chamber of Commerce and Industries, Nisar Sagar introduced the MCCI and stressed the need for coming out of groupism, getting united and disseminating the message of love and peace.

In his presidential remarks, Secretary of the Indian Association of Muslim Social Scientists (IAMSS), Prof. Shamim A. Ansari highlighted the aims and objectives of the AIMSS and suggested that such programs should be held at Pune on regular basis. He appreciated the efforts of office-bearers of IAMSS Western Zone, for organizing this program. He said that association had been focusing on social issues, particularly relating to Muslims. A vote of thanks was proposed in the inaugural session.

Technical Session-I

The first technical session was chaired by Prof. Shamim A. Ansari, Secretary, IAMSS. Prof. Khaja Moin Shakir of Dr. Babasaheb Ambedkar Marathwada University, Aurangabad spoke on political representation of minorities in state assemblies and Parliament. He commented that when Muslims were 14 percent, the BJP vote percentage declined. On the contrary, in the Muslim majority areas, vote percentage of the BJP increased. This was ironical. Social scientists should do analysis of the election data and put suggestions in order to make Muslim voting effective, he said. Prof. M. G. Mulla, Dean, Faculty of Commerce, Abeda Inamdar Senior College, Pune, identified the indicators of inequality between Muslims and other religious groups. He held that education could reduce these

inequalities. India was made in class rooms. However, the New Education Policy (NEP) did not promote education. He opined that more Muslim students were dropping out when the NEP was being implemented.

Sohail Ansari, Director, MCCI, focused on the role of the MCCI in the development of Muslims in India. He said that the economic condition was dismal. For example, Muslim literacy rate was below the national literary rate. Twenty-five percent of the beggars on the streets were Muslims. He did SWOT analysis for Muslims and emphasized that education and economic uplift were extremely necessary for Muslims. He said that the MCCI could play a vital role in this connection.

Technical Session-II

The second technical session was chaired by Nizamuddin Shaikh of Sholapur. In this session, presentations were made on media and under-representation of minorities, especially Muslims in India. Mr. Shikalgar, Founder President of Maharashtra minorities pointed out that Muslim issues were ignored. Dr. Subhash D'Souza, Vice-Principal of Virar College, eloquently explained how media presented a very bad and incorrect image of Muslims and Christians in India. Suhail Faqih, General Secretary of G.M. Momin Women's College, Bhiwandi, Kalyan, analysed the present situation on the representation of Muslims in Indian media and provided some suggestions to rectify this. Dr. Khalil Ahmed, principal, AEK College of Commerce and Management, Mumbai, also made some suggestions to correct the present status of Muslim representation in Indian media. He also suggested that some reforms should be made to correct distortions in the media coverage of Muslims.

Technical Session-III

Prof. Khaja Moin Shakir of Dr. Babasaheb Ambedkar Marathwada University, Aurangabad, chaired the third and last technical session. In this session, Prof. Anjum Ara of Rizvi College, Mumbai, presented an exhaustive statistical data on jobless growth in India and its impact

on minorities. Dr. Nasir Sheikh, Principal of Foresight College, Pune, focused on the role of social sciences and the importance of values in human development. Dr. Malika B. Mistry spoke on educational status of minority women in India. She made several recommendations to improve the dismal state of Muslims in general and Muslim women in particular.

Valedictory Session

In the valedictory session, Dr. Daniel Penkar, Director, SIOM, Pune, observed that drastic steps were required for the uplift of Muslims in India. But one did not speak on these issues. He called for giving best education to girls. Every country required quality population. When one had quality, even his worst enemies would attract to the community. For instance, when Shami, a national cricket player, excelled in the World Cup, Yogi Aditya Nath named one gym after him. He suggested that some experts should do research on government's welfare schemes and disseminate in the community so that the community forged ahead on the path of development. He said that small things mattered a lot. He asked for using the talent of the youth for the good of society and the nation. Community's strength and education would keep it intact. Every problem had a solution and no Hindutva conspiracy would ever affect the community, he added.

In his valedictory address, Vice-Chancellor of PA Inamdar University, Pune, M. D. Lawrence stressed that the minorities should sustain with honour. They must leave hypocrisy and get united. He said that within minority itself there was majority. They should use CSGD strategy for their sustainability. He maintained that while 'C' stood for continuity, 'S' stood for solidarity 'G' for growth and 'D' for development. Minorities should have regular, healthy and continuous flow of relationship with all. Solidarity should be for all and with all bereft of ego, jealousy, lust and greed. They should continuously develop. Further, right information about minorities should be disseminated. Focus on this strategy would guarantee success, he concluded.

In his presidential address, Mubeen Khan, Vice-President of the MCCI, said that economic condition of Muslims was worse than that of the scheduled castes. He remarked that unless the minorities wanted to change their own condition and worked to achieve that goal, even Allah would not help them. Work ethic was basic to Islam. Muslims should leave their laziness. Economic uplift was most important. If Muslims wanted to reform the community, they must give time to the people of the community and work with them. There was no use blaming others. He advised Muslims to improve themselves. “We must make ourselves so strong that Allah will ask us what we want. Skills must be imparted to our youth”. There was need to see that the youth became proficient in latest technology, like chat GPT, AI, etc. Muslims needed to be job givers rather than job seekers. Referring to politics, he said that Muslims should not indulge in hate speech because this would unite the majority community. Muslim unity was extremely necessary. Muslims must interact with non-Muslims closely to earn their goodwill and to clear their prejudices, he counselled.

The success of this national seminar would not have been possible without the active participation of various faculty members of Poona College. Prof. Shakeel Ahmed thanked all of them in his vote of thanks in the valedictory session. He thanked chief guest, guest of honour, all the speakers and participants. Finally he thanked Mr. Mohammad Alam, Finance Secretary of the IOS, Prof. Aftab Anwar, Principal of Poona College and Mr. Arman Shaikh, Vice-Principal of Foresight College, Pune for the success of this national seminar.

The seminar was well-attended by scholars and social scientists.

After a day-long deliberation, the following resolutions were adopted:

1. Indian Constitution is pluralistic in nature and it is essential to work for building an India of unity in diversity.
2. To adopt collective and peaceful efforts against discrimination, malpractices, violence etc. against minorities.

3. To work towards discouraging bigotry and fanaticism and encouraging sympathy, tolerance, peaceful coexistence and compassion.
4. To work for strengthening the universal brotherhood, as envisaged in the Preamble of the Constitution.
5. To set and define the roadmap for economic empowerment of socially marginalized individuals and groups.
6. To take lead in the formation of peace committees and participate in its working actively for the welfare of all social groups.
7. To find out all democratic and governmental mechanisms and policies for the welfare of minorities and avoid activities which are detrimental to the socio-cultural fabric of India.

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

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