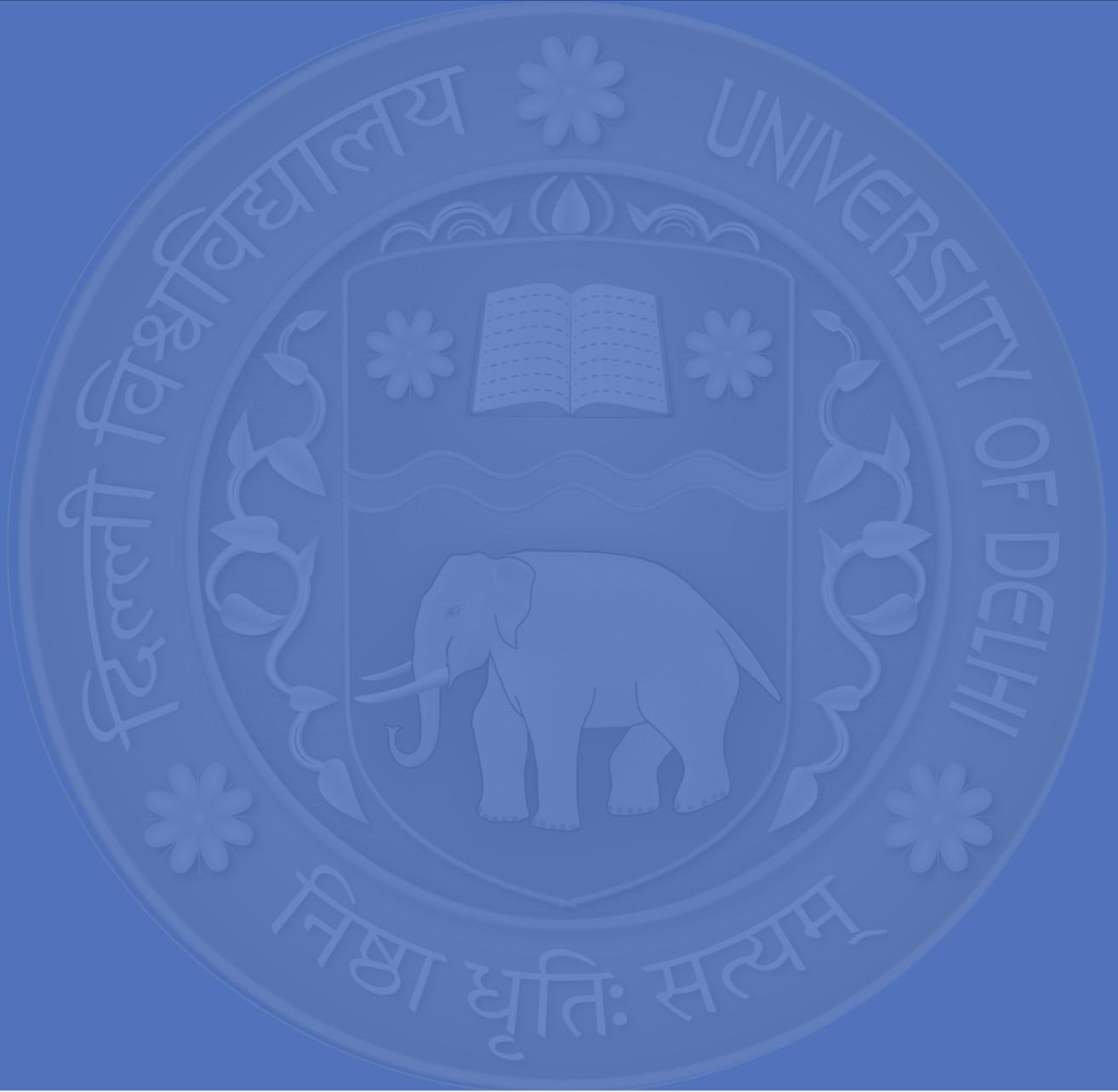


The Delhi University

*Journal of the  
Humanities and the Social Sciences*

ISSN: 2348-4357

Volume 3, 2016



UNIVERSITY OF DELHI



The Delhi University  
*Journal of the Humanities and the Social Sciences*

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## **Critical Cosmopolitanism and Anglophone Literary Studies**

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### ABSTRACT

As the discipline of English studies evolved and spread during the twentieth century, it performed both civic humanist and instrumental/vocational roles, with these two broad goal orientations sometimes at odds with each other. It performed a normative function for the hegemonic ruling-class, helping to train and assimilate a cadre of managers, professionals and clerks among both working-class students of the metropole and subaltern colonial students of the periphery. On the other hand, literature sometimes had progressive and inclusive effects, preparing citizens for democratic participation in the public sphere of the modern nation-state. In the current moment of neoliberal globalization, these traditional functions of literary studies are being undermined. In order for literary studies to be a viable force for democratic empowerment requires a conceptual framework of global political agency and a serious critical engagement with the students' needs for instrumental/vocational training and education.

Keywords: Cosmopolitanism, Neoliberalism, Globalization, Literature

### 1. INTRODUCTION

Under the political-economic conditions of neoliberalism, higher education's traditional civic role of producing citizens and leaders for the nation-state is being overwhelmed by a market-oriented model that functions, however indirectly, to serve global corporate business interests. This development is sometimes represented as a democratic response to student demand for training that will lead to secure careers, and sometimes characterized as an inevitable response to a world shrunk by technological advances in communication and transportation. But

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neoliberal ideology packages consumer choice as democratic agency, and substitutes a kind of “corporate cosmopolitanism” in place of a richly-informed global citizenship.

I add the qualifier “corporate” to the neoliberal version of cosmopolitan sensibility in order to distinguish it from the snobbish and Eurocentric associations of traditional cosmopolitanism, on the one hand, and from the efforts of contemporary thinkers to articulate a non-elitist and non-Eurocentric “critical cosmopolitanism” on the other hand. Corporate cosmopolitanism naturally evolves as a shared set of experiential reference points and values among the professional-managerial class of workers involved in transnational business. This corporate cosmopolitanism may be globally aware and more or less non-Eurocentric, but it has no particular stake in egalitarianism or democracy. By contrast, scholars such as Walter D. Mignolo, Ulrich Beck and Gerard Delanty have argued for a new “cosmopolitanism from below” or a “critical cosmopolitanism” in non-elitist and non-Eurocentric terms. This kind of critical cosmopolitanism can advance democratic agency in a post national world order, and it can be nurtured by a global Anglophone literary studies that systematically relates local and national cultures to transnational contexts without subsuming the local under the global.

## 2. NEOLIBERALISM AND GLOBALIZATION

In various ways, economic globalization weakens the nation-state as a framework for democratic agency as national structures are subordinated to the needs of corporate business. For example, late capitalism depends upon the control of labor migration regulated by the borders of nation-states. A loosely coordinated array of institutions and governmental bodies functions to encourage migration of workers in some cases, and restrict migration in others. In some instances global capital takes advantage of local constraints on wages and working conditions to suppress labor costs. In other instances highly-educated workers are encouraged to migrate, causing brain-drain problems in developing economies and yielding a wind-fall benefit to highly-developed economies that under-invest in their own educational systems. What is consistent in all of this is that the system privileges property rights over human rights and capital development over human development, and, in many cases, even over national development.

Neoliberal vocationalism in higher education poses challenges to traditional literary studies, but neoliberalism and globalization depend upon some version of cultural studies, at least, if not upon traditional literary studies, as preparation for jobs that require high levels of critical awareness, cosmopolitan perspective, and communicative competence. So, there are clear opportunities for a critical engagement between literary studies and the “vocational

imperative” of neoliberal higher education. What is needed is a framework of Anglophone literary studies that could nurture a "democracy of the multitude” as envisioned by Antonio Negri and Michael Hardt (*Commonwealth* viii). A democracy of the multitude would be based on a citizenship of the global "common" that confers the right to live anywhere, to work anywhere, and to work as creatively and productively as one’s capabilities allow. "A democracy of the multitude is imaginable and possible," Negri and Hardt argue, "only because we all share and participate in the common." And by the “common” they mean not merely the "common wealth of the material world" as understood by classical European political theory, but, more significantly:

*those results of social production that are necessary for social interaction and further production, such as knowledges, languages, codes, information, affects and so forth.*

(*Commonwealth* viii)

These resources of the common are precisely the educational purview of literary studies.

It is clear that, absent the grounding framework of national cultures, the project of literary studies will be overwhelmed by the force of transnational corporate culture, reduced to a mechanism for developing the skills and attributes required for global commerce and industry without a critical perspective. On the other hand, these terms describing a global “common” that could serve as a foundation for the political empowerment of a transnational multitude correlate closely to those skills and attributes that global business seeks to develop in students. So, ironically, as Negri and Hardt imply, global capitalism finds itself in a double bind; the system itself provides the opening for a new kind of democratic political empowerment even as it tends to overwhelm existing structures of democratic power. In this historical context, we can develop a global Anglophone literary studies as a framework for civic humanist agency that, like global capitalism, selectively deploys but is not bound by ideologies of nationalism and institutional structures of the nation-state.

### 3. NATION-STATES AND NATIONAL LITERATURES

The traditional civic humanist role of literary studies in modern universities is indebted to two important concepts that I associate with the thought of Immanuel Kant, and hence specifically with the inception of the epoch of modernity. One of these is derived from Kant’s notion of the aesthetic, as described in his *Critique of Judgment*. For Kant, aesthetic judgment is a spontaneous recognition of that which is agreeable, beautiful, and sublime or good that will evoke universal and necessary assent among right-minded members of a community.

Traditional literary studies aim to nurture and cultivate this sensibility among students, notwithstanding the irony implied in a spontaneous recognition that must be taught as a discipline. The other concept, drawn from Kant's *The Conflict of the Faculties*, is the idea of the university as an institution in the service of the nation-state but which at the same time must retain some degree of autonomy from direct governmental control in order to perform that service. That is, modern democracy requires, and, I would add, robust capitalism also requires, a safe space within the social order for scientific, political, cultural and economic experimentation and innovation outside of direct governmental control.

As many scholars have pointed out, the study of literature in schools and universities dates only from the nineteenth century. It is often associated with a fear—expressed by Matthew Arnold—that in modern society the ideological power of the Church could no longer guarantee the conservative values necessary to maintain social order. In studying English literature, it was hoped, the masses would gain enough appreciation for traditional values to prevent society from dissolving into chaos. According to Gauri Viswanathan, this strategy actually originated in British India, as a provision for “native education” in the East India Company's Charter Act of 1813 (1987, p. 376).

During the twentieth century, in Great Britain and the United States, growing numbers of students from middle-class and working-class families attended universities, and literary studies performed both ideological and practical functions in preparing them for citizenship and careers. Meanwhile, as English became the global *lingua franca* of science, business and politics, universities around the world adopted curricula and textbooks from English and American publishers. Students of English literature in Africa, Asia, and South America study some version of the Anglo-American canon as determined by the (mostly) British and American university professors who edit textbook anthologies. In an essay published in this journal in 2014, Ravindra Tasildar noted that the syllabus for the English Literature section of the 2013 Indian Civil Service Examination was made up almost completely of British writers, with only two exceptions—Henrik Ibsen and Mark Twain. In a random survey of bachelor's and master's programs in English in 50 Indian universities, Tasildar found a similar pattern (2014, pp. 60-65).

When, in the aftermath of independence, the Kenyan writer and scholar Ngũgĩ wa Thiong'o argued for the abolition of the English department at the University of Nairobi, his logic was absolutely compelling—why should university students in the newly independent nation-state of Kenya continue to study the national literature of their former colonizer, Great Britain, rather than to cultivate their own national literature, in their own indigenous languages?

Ngũgĩ was right to recognize that the development of an aesthetic sensibility in an atmosphere that is relatively autonomous from direct external political control is a core function of literary studies.

Still, from our current vantage point, and perhaps even from the perspective of 1970s *realpolitik*, Ngũgĩ's logic was self-defeating. His argument was embedded in the logic of high modernity, the logic of discrete nation-states and national cultures, the logic of a moment before the postmodern advances in transportation and communication made the world a smaller place. In the 1970s it may have been possible to imagine that some nations could navigate the currents of the bi-polar cold war between East and West so that their national cultures might be protected from outside influences. But in the post-cold-war age of cell phones and social media we can no longer close our borders, and globalization doesn't disappear when we close our eyes. A global Anglophone literature curriculum must be transnational, and it must disrupt the unquestioned centrality of Anglo-American literature. Of course, this project is already well under way. In response to the challenges of postmodern theory, identity politics and globalization, the Anglo-American literary curriculum has been supplemented by writings from postcolonial, subaltern and nonwestern writers. Writing on "The Burden of English" in a postcolonial setting, Gayatri Chakravorty Spivak has suggested that English literature should be taught in such a way that it is "intimately yoked to the teaching of the literary or cultural production in the mother tongues" (2012, p. 52). The point is not for all students to become fluent or expert in all of the languages at play in the encounter, though some participants will be competent users of the multiple languages, and that will be a benefit to all. Rather, the strategy is "inter-literary" as opposed to "comparative." "In the presence of long-established institutional divides and examination requirements," she writes, it is important to see the alien texts of the metropole and the familiar texts of the mother tongue each as a product of an "epistemic system," and to stage collisions, for example, between writers like Kipling and Tagore.

Nonetheless, it would constitute a self-defeating retreat from globalization simply to replace the Anglo-American canon with a local or subaltern literary canon. As Spivak has stated, emphatically, on another occasion:

*Unfortunately, material reasons as well as a not-unconnected devotion to English have produced a lowering of interest in the production and consumption, indeed in the quality, of work in the regional languages of India. On the other hand, I think we cannot undermine our current excellence in the study of English—throw away something that we have developed over the last few centuries—because of this*

*situation. The real solution would be to find ways of supporting a Comparative Literature of Indian languages, rather than jettison the exquisite literature of global English today.*

(2014, p. 4)

#### 4. CRITICAL COSMOPOLITANISM

If the study of literature and culture is justified in Matthew Arnold's terms of introducing students to the best that has been thought and said in the world, then the very fact that these values and ideals have to be "taught," the very act of indoctrination, becomes the occasion for deconstructing their supposedly self-evident authority. The good news is that the necessity of "teaching" literature means the study of literature sometimes disrupts the smooth surface of ruling-class hegemony. The study of literature often transcends or escapes prescribed functions of cultural indoctrination. And good students get it "wrong" in productive and sometimes transformative ways. Most students seeking to enter the global job market, either from the metropole or from the periphery, will not pursue majors in the Humanities. But most students will be studying English, either as a second language or as a process of improving their critical thinking and communication skills, and under the best circumstances they will be exposed to Anglophone literatures and cultures. This is an opening for a progressive democratic teaching of literature focused on articulating and fostering a critical "cosmopolitan imagination." Unlike traditional cosmopolitanism, critical cosmopolitanism is neither elitist nor Eurocentric. Gerard Delanty has described four dimensions of the "social" that constitute this critical cosmopolitan imagination. First, he writes, critical cosmopolitanism emphasizes cultural difference and pluralization as a positive ideal for social policy, as opposed to the normative and homogenizing tendencies of traditional literary studies focused on cultivating national cultural traditions. Second, Delanty's account of critical cosmopolitanism emphasizes the importance of dispersed centers of authority and power—"cosmopolitanism is not reducible to globalization but refers to the interaction of global and local forces." Third, Delanty calls attention to the disruption of traditional hierarchies by digital telecommunications and advanced transportation systems:

*Territorial space has been displaced by new kinds of space, of which transnational space is the most significant. In this reconfiguration of borders, local and global forces are played out and borders in part lose their significance and take forms in which no clear lines can be drawn between inside and outside, the internal and the external. A cosmopolitan perspective on the social world gives a central place to*

*the resulting condition of ambivalence in which boundaries are being transcended and new ones established. Thinking beyond the established forms of borders is an essential dimension of the cosmopolitan imagination.*

Finally, along the lines of Negri and Hardt's "global common," Delanty calls for a "reinvention of political community around global ethics and especially around notions of care, rights and hospitality." At the current stage of economic globalization, he argues, "the social cannot be separated from cosmopolitan principles and the aspiration to establish a new kind of political community in which national interests have to be balanced with other kinds of interests" (2006, p. 7).

## 5. THE VOCATIONAL IMPERATIVE

In the early 1990s, after visiting several universities in the Persian Gulf region, Edward Said described an ambivalent situation. On the one hand, more students were studying English than any other subject. But the demand for English studies was prompted by purely instrumental goals: "many students proposed to end up working for airlines, or banks in which English was the world *lingua franca*." This pragmatic, vocationally-motivated demand for English studies, Said concludes, "all but terminally consigned English to the level of a technical language stripped of expressive and aesthetic characteristics and denuded of any critical or self-conscious dimension" (1993, p. 305).

There has always been an instrumental/vocational role for English studies in promoting patriotic sentiments as well as critical thinking and communication skills among a cadre of students who will become mid-level managers in government bureaucracies and private corporations. Throughout the twentieth century literary studies also had some progressive political effects. Literary studies helped to prepare growing numbers of citizens for democratic participation in the public sphere of the modern nation-state. In the latter half of the century, literary studies became closely linked with cultural identity politics and politically-oriented modes of critique. At the same time, literary studies continued to fulfill instrumental and vocational goals, whether the indirect function of promoting advanced literacy skills that would be useful, somehow, in the workplace, or the more direct function of training secondary-school teachers. But in the current moment of neoliberal globalization, all of these social functions of literary studies are being undermined—partly a symptom of the postmodern redundancy of those modern nationalist and colonialist projects and partly a symptom of the neoliberal imperative to subject all social functions of government to the logic of the marketplace. There is a traditional hierarchy of prestige in which vocationally-oriented projects within the academy

are viewed as beneath the interest of literature professors, and there is a temptation for progressive teachers of English to deplore this situation while ignoring the pragmatic motivations of students. While it is easy to associate traditional literary studies with various forms of reactionary politics, there is still an argument to be made for literary studies as a progressive force. It requires a conceptual framework of global political agency and a serious critical engagement with students' needs for instrumental/vocational training and education in addition to their need to develop critical consciousness and aesthetic sensibility.

## 6. EMPATHY AS A VOCATIONAL SKILL?

In today's job market, according to Bruna Martinuzzi writing in a 2013 post on American Express's internet forum, English majors are "the hot new hires." English majors, she argues, are highly-sought employees, because English majors excel in four specific skills: they have oral communication skills, writing skills, researching skills, and critical thinking skills. These are familiar vocationally-oriented goals of English studies. But then Martinuzzi adds to these skills a distinctively "avocational" attribute of the English major—"empathy":

*There are numerous studies that correlate empathy with increased sales, with the best performing managers of product development teams and with greater efficiency in an increasingly diverse workforce. Empathy is indeed the oil that keeps relationships running smoothly. . . .*

Citing a study showing that frequent readers of fiction "*have higher levels of cognitive empathy*"—or "*the ability to understand how another person feels*"—Martinuzzi concludes that "*when you hire an English major, you're likely hiring someone who brings cognitive empathy to the table.*"

(Bruna Martinuzzi, "Why English Majors are the Hot New Hires")

Admittedly, Martinuzzi's rather strained argument is not likely to persuade students who are anxious about post-graduate employment prospects to enroll as English majors. And reducing the cultivation of "empathy" through English studies to such specifically practical, instrumental and commercial terms may strike the humanist reader as a degrading description of literary studies, a rude violation of the uneasy compromise between vocational and political goals of English, and an insidious instance of the neoliberal tendency to reduce all value to market value. Still, even a back-handed compliment is welcome. And Martinuzzi's unconvincing attempt to appropriate the development of "empathy"—a decidedly avocational trait—for neoliberal vocational ends invites a deconstructive reading. Is it the case that, unavoidably, along with skills of oral communication, writing, researching and critical

thinking, English majors will develop heightened capacities for empathy? Is this a potential threat to the vocational imperative of neoliberal higher education? Is it a threat that business interests need to contain by claiming empathy as their own agenda, by guiding the empathy in a certain direction? Terry Eagleton once observed that modernist literary studies taught students to be “sensitive, receptive, imaginative and so on... *about nothing in particular*” (italics in original; Eagleton, p. 98). Martinuzzi and readers of the American Express internet forum would probably approve of this function, but the dominant trend for the past four decades has been in the opposite direction—toward a politically self-conscious and progressive literary studies. Martinuzzi’s attempt to claim cognitive empathy for vocational ends is a signal that literary studies can be a site for democratic agency against the grain and from within the structures of neoliberal globalization. The study of literature will continue to be a problematically (in a good sense) avocational pursuit in the neoliberal university.

#### 7. THE GLOBAL ANGLOPHONE LITERATURE CURRICULUM

In order for literary studies in English to be an effective force for democratic empowerment under conditions of neoliberal globalization the curriculum needs to privilege certain works that can speak to the commonwealth, the civic polity of the global multitude. And in order for the curriculum to be coherent, the works need to be in dialogue with each other. Traditionally, it was argued, or at least assumed, that the Anglo-American canon consisted of works that should evoke a common human response from competent readers regardless of race, gender, national origin, class background, etc. This assumption was discredited, in the 1980s, by the post-structural critique of Enlightenment universalism and the related critiques of race, class, gender and colonial privilege in canonical texts. Nonetheless, some common framework must serve as the foundation of a curriculum. In my view, what remains valid as a broad, even global, framework for literary study would be a critical discourse analysis that is historically situated in relation to the evolving conditions of modernity.

‘Literature’ as I am using the term in this essay, is a distinctly ‘modern’ phenomenon, and every society that participates in economic globalization has some relation to the experience of modernity. Therefore, a self-conscious recognition of the role of literary texts and literary studies in modernity should be able to provide a broad framework for a literary curriculum in lieu of criteria such as nationality of authors or presumed aesthetic value abstracted from political and historical considerations. Further, from a generic perspective, the novel is a specifically modern art form. Novels are made possible by the material conditions and mode of social organization of modernity. They require mass literacy, industrial production

and distribution of printed texts, and, typically, urban, bourgeois reading audiences. Novels and short stories also engage some of the recurring issues of subject formation in modernity. For example, psychological novels develop interiorization as an art form, and portray typically modern struggles of individual subjects such as alienation and isolation. The *Bildungsroman*, or novel of the formation of a young person into an adult, is an invention of modernity that resonates across different cultures, but is not a typical form of artistic expression or concern in pre-modern narrative. Issues of subject-formation, class consciousness, race and gender identity, are modern themes, as are narratives of colonial encounters and anti-colonial struggle.

But this is not to say that the global Anglophone literature curriculum must have a particular prescribed conceptual focus—the point is simply that the works studied should be in dialogue with each other in the context of a community that is not bound by the traditional hierarchy of center and periphery. I think that community is emerging as a consequence of economic globalization, and I think it will have to flourish if global capitalism continues to evolve. This presents both an advantage and a challenge for my project. On the one hand, economic globalization is producing a community of educated, cosmopolitan subjects who might become citizens of a global democratic political order—the “multitude” of Negri and Hardt. On the other hand, this community is decidedly bourgeois. At the current moment and for the foreseeable future, it leaves out the larger proportion of the world’s population. In the global cosmopolitan bourgeoisie one finds a ready-made transnational community, but that population is formed by a global capitalist order that has no articulated stake in democracy. If this community is to become a force for expanding human liberation, it will have to develop a vision that goes beyond the traditional nationalist cultural boundaries of modernity.

Ironically, as a practical matter, the economic, and specifically consumerist, constitution of the global Anglophone professional-managerial class, provides another element of the framework for building a global Anglophone literary curriculum. Given the problems of teaching literature in a ‘post-literate’ epoch, in which reading for pleasure is no longer widespread and valorized, an effective canon would prominently consist of works of recognized literary merit that have been adapted into films and other digital formats for wide global distribution. Such works are already transnational and already have demonstrated relevance to popular audiences. There is some danger that such an approach would lapse into a consumerist popularity contest of ‘lowest-common-denominator’ standards, but this tendency would be mitigated by the inevitable inclusion existing canonical works from the Anglo-American, post-colonial and non-western Anglophone traditions that have been adapted for broad distribution through film and other media forms. While this curriculum doesn’t

foreground questions of form and aesthetic quality, it doesn't preclude such questions. And the opportunity to examine literary works across different media platforms—print, film, video, perhaps video games—invites consideration of form and aesthetic quality.

At this point, it will be useful to present some tentative examples. What comes quickly to mind are the literary texts written from the periphery that critique or texts that perform a 'detournement'- a 'high-jacking'- of canonical metropolitan texts. Examples would include Jean Rhys' *The Wide Sargasso Sea*, which can be read as a postcolonial response to Charlotte Brontë's *Jane Eyre*, or Aime Césaire's *A Tempest* (in French originally *Une Tempête*), which demands to be read as an anti-colonialist riposte to Shakespeare's *The Tempest*. These texts have become so prominent in their own right that by now it seems almost irresponsible to teach *Jane Eyre* or Shakespeare's *Tempest* without reference to Rhys or Césaire. There is also a critical movement of 'Transatlantic Literary Studies'; in the introduction to a volume of essays under that title, editors Susan Manning and Andrew Taylor propose that the "transatlantic paradigm offers renewed potential for literary study that for too long has been tied to the ideological and political requirements of the nation-state" (Manning and Taylor, p. 2).

So, in the choice of which traditional canonical works to teach, as well as in the ways we approach them, we need not be bound by the national traditions. Strategically, some works don't travel as well as others, and this has nothing to do with literary quality. Consider, for example, two novels that are widely taught in English literature courses around the world-- Mark Twain's *Huckleberry Finn* and Joseph Conrad's *Heart of Darkness*. As I mentioned earlier, Mark Twain was one of only two non-British writers on English Literature section of the 2013 Indian Civil Service Examination. *Huckleberry Finn* is one of the pillars of the American literary canon. The book has lasting popularity, and it has had a formative influence on subsequent American literature. It treats the theme of racism, a socio-political issue that threads through American history from the colonial era to the present day. Furthermore, the text is a model *Bildungsroman*, and it is recognized for its achievement of formal stylistic innovation, for its liberal use of slang and for its first-person limited-perspective narration by a child protagonist. For all of these reasons, it would seem to be an obvious choice for inclusion in a literature curriculum. On the other hand, the book's centrality to the American experience comes at the expense of making it less accessible to an international audience. The colloquial style is difficult. The theme of late nineteenth-century American racism is distinct enough that it doesn't automatically resonate with readers from other cultures. And, while there have been film adaptations of the book, none of these has gained critical favor or widespread popular success. In fact, the book is rather difficult to teach outside of the United States, and

increasingly difficult, as time goes on, to teach within the United States. So, despite its obvious importance in the history of American literature, *Huckleberry Finn* might be better left out of a global Anglophone literary curriculum, or at least left for advanced students.

Now, let me contrast the choice of *Huckleberry Finn* with another novel from roughly the same historical moment - Joseph Conrad's *Heart of Darkness*. Conrad's *Heart of Darkness*, coincidentally, shares much in common with *Huckleberry Finn*. Structurally, both novels employ the narrative of adventure as a plot device, even to the point of featuring river voyages prominently. Both novels develop an ironic critique of modern society through the perspective of an ostensibly naïve narrator. Both novels invoke the tradition of *Bildungsroman*; although Marlowe, the protagonist of *Heart of Darkness* is no longer young, the novel documents his loss of innocence as he encounters the corrupt ethics of the modern business world. Thematically, both novels treat the issue of racism, though neither text is as much concerned with the liberation and/or fair treatment and understanding of black people as it is with a critique of the cancerous effects of racism on European and American societies. But *Huckleberry Finn* treats the issue from a narrow, distinctly American perspective, while *Heart of Darkness* embeds it in the contexts of capitalism and colonialism, both of which are more central issues than race in the novel. *Heart of Darkness* threads the analysis of acquisitive territorial expansion, conquest, exploitation, colonialism and capitalism over two millennia to ancient Rome's conquest of Britain, then across geographical space from England to Belgium, along the coast of North Africa and finally to the Congo. So, if I were considering which of these two novels to include in a curriculum or on a syllabus for global Anglophone literature, based on thematic considerations, my choice would be *Heart of Darkness*, simply because it has a more global, cosmopolitan frame of reference.

Aside from thematic considerations, I would also take into account practical considerations such as access and currency. Here, again *Heart of Darkness* has an edge. Twain's use of colloquial slang in *Huckleberry Finn* was an important aesthetic innovation, and it is powerfully effective as a formal strategy in the novel. But the colloquial dialogue makes the novel difficult to read even for contemporary American students, and no doubt much more difficult for non-Americans. So here again, with its elegant standard English prose, *Heart of Darkness* has an edge. But, by access and currency I mean something more than how easy it is to decode literary prose. It is more important that a prior awareness of the text is relatively widespread. This may be manifest through film adaptations, for example, but also through the text's influence upon or participation in a cultural meme that has wide global currency. Although *Huckleberry Finn* has been adapted on film, the adaptations have not been notable,

and have not had wide distribution. *Heart of Darkness*, on the other hand, was adapted as the basis for one of the most widely acclaimed films of the twentieth century, *Apocalypse Now*. This gives the novel greater potential currency among a transnational audience, and the fact that *Apocalypse Now* re-locates the narrative from European intrusion into Africa to American intrusion into Southeast Asia actually enhances this aspect of the discursive ensemble with which to engage students.

Critical controversy can also factor into the decision of which text will be most relevant for a global Anglophone literature curriculum. In this comparison, both texts have been the subject of controversy around the issues of racism. *Huckleberry Finn* has been banned from many high schools in the United States because of the stereotypically condescending representation of the African American character, Jim, who is somewhat infantilized in the representation of his relationship with the adolescent Huck. On the other hand, *Heart of Darkness* was the subject of a landmark anti-racist critique by the Nigerian novelist Chinua Achebe. Whether or not we agree with Achebe's critique, it opens a dialogue that expands the transnational and transhistorical reach of *Heart of Darkness*.

## 8. CONCLUSION

Much more could be said about these examples, and about other similar pairings and ensembles. My point here is not to make a definitive claim about canonical boundaries, but to suggest the kinds of premises and questions that should guide the development of a global Anglophone literary studies. As Brazilian educator Cielo Festino has observed, the teaching of foreign literature is always a “transcultural phenomenon” that “acquires new value when it crosses cultural borders, depending on the relationship among the different cultural loci of origin and destination,” but this is not an innocent, peaceful process:

*The texts included in the syllabus do not necessarily exist in multicultural harmony as there will always be a collusion between knowledge and power, when the trans experience is enacted, that has to do with the fact that mainstream literary texts are generally associated with a concept of culture that is taken as universal, while so-called marginal traditions are associated with an ethnic (local, less valued) concept of culture.*

(Festino, p. 5)

With its claim to represent, in Matthew Arnold's words, “the best which has been thought and said” and its structural division into chronological periods, the traditional Anglo-American curriculum evades questions of power and affirms the imbalance between so-called

“mainstream” and “marginal” texts. By contrast, a global Anglophone literary studies should disrupt this residual power imbalance, and reject its implicit claim to self-evident status.

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Chua, C.L. (2016). "The Crucifix and the Lotus: Christian and Buddhist Motifs in the Artistry of Japanese American Author Hisaye Yamamoto". *The Delhi University Journal of the Humanities and the Social Sciences* 3: 15-25.

## **The Crucifix and the Lotus: Christian and Buddhist Motifs in the Artistry of Japanese American Author Hisaye Yamamoto**

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### ABSTRACT

Religious motifs have an integral role in several key short stories by the renowned twentieth-century Japanese American author and sometime religio-social activist Hisaye Yamamoto. For instance, the subtle interplay of Christian themes and the story's events leads Yamamoto's readers to an uneasy confrontation with the Christian problem of evil in her "Yoneko's Earthquake." A similar subtle dynamic brings the readers of Yamamoto's "The Legend of Miss Sasagawara" to interrogate the viability of Buddhism in the face of American socio-political injustice.

Keywords: Japanese American Literature; Christianity, Buddhism, U.S. in World War II

The Asian diaspora to Anglophone North America has persevered during the past 150 years despite repeated attempts to suppress it, and it has resulted in a bumper crop of Asian American and Asian Canadian writers who are winning literary prizes, scaling bestseller lists, and even busting into Hollywood box offices. One has only to think of Asian Canadian works like Joy Kogawa's *Obasan* or Michael Ondaatje's *The English Patient* and of Asian American titles such as Amy Tan's *Joy Luck Club* or Maxine Hong Kingston's *The Woman Warrior* (which, according to a survey conducted by the Modern Language Association of America [MLA], became at one point "the most widely taught book by a living author in U.S. colleges and universities" [Chun,

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*Acknowledgement:* The author wishes to acknowledge the generous support of the Graduate School of Tsuru University, Yamanashi, Japan, during the completion of this article.

1991, p. 85]).

Deserving to be numbered in this company of authors is the Japanese American woman writer of short stories Hisaye Yamamoto, born in California in 1921 of immigrant parents. Yamamoto's literary production is not voluminous, but her readers admire the lapidarian quality of her work and the subtle irony with which she probes Japanese American life. Three anthologies of her selected writings have already appeared, and a film adaptation of two of her stories was also first broadcast on the Public Broadcasting System (PBS) in the U.S. in May 1991 (Lee, 2001, p. 259). Yamamoto's first anthology, entitled *Seventeen Syllables: Five Stories of Japanese American Life*,<sup>2</sup> was published in Tokyo by Kirihara Shoten in 1985; her second, entitled *Seventeen Syllables and Other Stories*, was published in Latham, New York, by Kitchen Table the Women of Color Press in 1988; and her third, entitled "Seventeen Syllables" was published by Rutgers University Press in 1994 and is a critical anthology that includes two of Yamamoto's stories accompanied by two memoir pieces, an interview, and nine critical essays by various scholars. Emiko Omori's 1991 made-for-TV motion picture broadcast on PBS is entitled *Hot Summer Winds*, and it combines characters and situations from two of Yamamoto's most admired stories, "Seventeen Syllables" and "Yoneko's Earthquake."

Critical attention on Yamamoto so far has focused on her depiction of the relationship between the issei (or immigrant Japanese Americans) and the Nisei (or second-generation), especially on mother-daughter relationships (Cheung, 1994, pp. 8-9). Justly admired as "consummately women's stories" (Kim, 1982, p. 160), too little attention, however, has been paid to the religious element in Yamamoto's work, this despite the fact that several of her best pieces are imbued with religious motifs and that religion played a significant role in her life. Indeed, a discussion of the complex role of religion in Yamamoto's art and life is called for. As illustrations of the vital presence of religious motifs in her art, one may point to two stories: "Yoneko's Earthquake" which deals with Euro-American Christianity and "The Legend of Miss Sasagawara" which deals with Japanese American Buddhism.<sup>2</sup>

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<sup>2</sup> My page references to "Yoneko's Earthquake" (pp. 46-56) and "The Legend of Miss Sasagawara" (pp. 20-33) are to Cheung's excellent 1988 edition of Yamamoto's *Seventeen Syllables and Other Stories* (Latham, New York: Kitchen Table Women of Color Press). "Yoneko's Earthquake" was initially published in 1951 in *Furioso* 6(1): 15-16, and was included in the 1952 edition of *Best American Short Stories*; "The Legend of Miss Sasagawara" was initially published in 1950 in the *Kenyon Review* 12 (1): 99-115.

The title “Yoneko’s Earthquake” is gently ironic, setting the tone of the whole story. For Yoneko is a ten-year-old Japanese American farm girl through whose point of view the events are seen, though not narrated—the narrative diction and irony being more mature than Yoneko’s could be. The possessive in the title begs the question whether a ten-year-old girl could possess an earthquake, or grasp its meaning or magnitude. And here we recognize that Yamamoto’s title echoes Voltaire’s earthquake, that of 1 November 1755 which shook Lisbon and rattled the deist faith of many an Enlightenment European philosophe. Thus Yamamoto archly opens her story with a sentence about Christian faith: “Yoneko became a free thinker on the night of March 10, 1933, only a few months after her first actual recognition of God” (46). But if the overt plot is about a child’s loss of religious faith, the muted plot (to use Gilbert and Gubar’s feminist term) is about her mother’s acceptance of Christian faith. The reader is left to contemplate the implications of both eventualities and to question religiosity at large.

Yoneko’s childish coming into Christianity is treated with indulgent irony as being superficial but innocent. She is converted by two factors: her peers and an apostle. The peer pressure comes from her church-going city cousins who know the rituals and the hymns, that are a mystery to Yoneko. Accompanying them to Sunday school, Yoneko feels like the mystified outsider longing to be an initiate, a Christian.

The apostle of Christianity is Marpo, the newly hired Filipino farm helper, who is young, Catholic, and by contrast to Yoneko’s dull father, an apparent Renaissance man. With gentle irony, Yamamoto presents Marpo through Yoneko’s naïve gaze: Marpo is an athlete (because he owns a Charles Atlas chest expander), and artist (because he traces pictures of Hollywood blondes and colors them), a musician (because he owns a violin and sings hymns and Irish songs), and a hi-tech wizard (because he assembles a crystal radio). In their theological discussions, Marpo and Yoneko do not speculate how many angels may dance on the head of a pin but about which star might be God’s favorite (movie star, that is).

An earthquake, possibly the Long Beach Earthquake of 10 March 1933 which wreaked havoc in southern California,<sup>3</sup> destroys Yoneko’s Christian faith—such as it is. As the ground trembles, a thoroughly terrified Yoneko prays to God to stop it. But

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<sup>3</sup> See Los Angeles *Times*. “The Long Beach Earthquake of 1933.” Yamamoto would have remembered this event since she was born in 1921 in Redondo Beach, California, and would have been a pre-teen like her character Yoneko in 1933.

the temblors persist, whereupon Yoneko loses her faith. However facetiously, Yamamoto has made her protagonist and us confront the problem of evil. She has asked: If God is not all mighty and not all good, why should we worship Him? Or otherwise put, how can God let bad frightening things happen to good people? The adult reader, of course, smiles at this childish confrontation with evil.

But actually the events of Yamamoto's muted plot, which Yoneko does not see but which we adult readers do, present a more complex chain of divine cause and human effect.

The earthquake causes a power line to break. It bounces on the car of Mr. Hosoune, Yoneko's father. *Deus ex machina!* He becomes a semi-invalid and, we surmise, impotent. Soon after, Yoneko's mother, Mrs. Hosoune, gives Yoneko a cheap ring which she breathlessly tells Yoneko to keep secret from her father. Yoneko is naively pleased by the ring and the thought of her superior knowledge over her father. But the adult reader surmises that Mrs. Hosoune has commenced an affair with Marpo. Then some months later, Mr. Hosoune drives his whole family to the Japanese hospital in the city for his wife to undergo an outpatient procedure. On the way, he callously runs over a collie dog. He swears Yoneko and her younger brother Seigo to silence about their mother's clinic visit. Marpo vanishes from the farm without saying goodbye. Yoneko feels displeasure for her father and Marpo. Again the adult reader gathers that the dead dog is the objective correlative for Mrs. Hosoune's illicit conception, that her husband has made her undergo an abortion (illegal at the time),<sup>4</sup> and that her affair with Marpo has come to light and to an end. Very subtly and in muted tones, Yamamoto has powerfully and painfully posed the problem of evil through the totally naïve viewpoint of a clueless ten-year-old. Why do such bad things happen to decent people of good will?

Is the divine plan to save the soul of Mrs. Hosoune? Another tragedy occurs when Yoneko's five-year-old brother, Seigo, dies of a sudden illness (probably a meningitis that afflicts rural California children and which the local people call "Valley Fever"). And now indeed, Mrs. Hosoune turns deeply religious and attends church devotedly. Apparently she is able to perceive the fearful symmetry of a divine plan. In

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<sup>4</sup> As King-Kok Cheung has pointed out, "The father's unblinking crushing of the collie evinces his fury at the liaison between Marpo and Mrs. Hosoune and his indifference to the life about to be quashed at the hospital. . . . Yoneko's unspoken pity for the animal reflects her mother's untold grief, for the collie's fate foreshadows that of her unborn child" (1993, p. 44).

the closing dialogue of the story, she urges her religious epiphany on Yoneko: “*Never kill a person, Yoneko, because if you do, God will take from you someone you love*” (56). The pattern of events have persuaded Mrs. Hosoune that God is indeed all powerful over life and unto death, all knowing into our most secret actions, all judging, and, alas, all unforgiving, exacting an eye for an eye, a living child for an unborn foetus. Hers is a God of awful symmetry.

Yoneko’s naïve reply to her mother is flippantly atheistic, “*Oh, that . . . I don’t believe in that, I don’t believe in God*” (56). Some readers will almost be relieved to hear her say this, even though she hardly appreciates the gravity of her words. For the alternative to her naïve flippancy would be her mothers’ bitterly exacting version of Christian faith, something that many readers would find too demanding, too fearfully symmetrical. Yamamoto thus leaves her readers engaged with a profound and disturbing religious dilemma in this story. In her story’s brief compass she has managed to raise deeply troubling questions about fundamental articles of religious faith.

Where “Yoneko’s Earthquake” interrogates Euro-American Christianity, “The Legend of Miss Sasagawara” engages with Japanese American Buddhism. The story’s title, “The Legend of Miss Sasagawara,” might lead us to expect a hagiography; and in an oblique sense it is that, but Yamamoto complicates her material by again ironically selecting a naïve narrator, a Japanese American teenager, named Kiku, whose narrative is rendered unreliable because it depends on hearsay relayed by another air-headed teenager. The setting of this story is a concentration camp in the Arizona desert, one of those created during World War II explicitly for relocating Japanese Americans and ethnic Japanese sent by collaborating countries such as Panama, Brazil, Peru, and others.<sup>5</sup> Miss Sasagawara, a 39-year-old ballerina, and her father, a recently widowed Buddhist priest, are new arrivals. To her new neighbors, Miss Sasagawara seems eccentrically private. She is reported to have chased away a neighbor offering to help clean her barracks quarters. She does not eat in the mess hall with everyone else but takes out her food. And she only uses the communal showers after midnight. Oddest of all, when an inexperienced doctor (really an intern) at the camp hospital fails to diagnose her excruciating abdominal pain, she refuses the ambulance and insists on walking the mile back to her barracks. After another hospital incident, she is sent to

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<sup>5</sup> For a comprehensive account of this event in American history, see Wendy Ng’s *Japanese American Internment during World War II*.

Phoenix for several months of psychiatric treatment. She returns apparently able to function in a more normal behavioral mode. She even sets up a ballet school for the camp children. However, after a dismal performance by her pupils at the Christmas concert, Miss Sasagawara seems to revert to her former disturbing ways. She is reported to be gawking at the horseplay of her neighbor boys with “a beatific expression” and “*one finger in her mouth as she gazed in the manner of a shy child confronted with a marvel*” (31); she is said to have gone into the cubicle of one of her neighbor boys and tidied up his room while he slept. The community of incarcerated Japanese Americans, therefore, consider Miss Sasagawara’s behavior abnormal. This time she is sent to a sanitarium in California, for good.

The lack of authorial or authoritative comment on Miss Sasagawara’s abnormality (or is it psychosis? or rebellion?) is deafening. One clue to the author’s view is the descriptor in the story’s title, “legend,” a term implying that Miss Sasagawara is of heroic stature. The naïve narrator and her unreliable sources build up tensions of ambiguity in the reader who longs to know more about the causes underlying Miss Sasagawara’s behavior. Is Miss Sasagawara pathologically anti-social for not showering with other women? Or could Yamamoto, as early as in 1950, be making a covert criticism of the American government for having stripped away the right to privacy (among other rights) of these people? Could Yamamoto also be criticizing the Japanese Americans who have so compliantly accepted the co-opting of such rights as normal? When Miss Sasagawara is rapt in watching the neighborhood boys at play, is Yamamoto making a comment about how intensely Miss Sasagawara’s incarceration has deprived her of her professional love of choreography and movement? When Miss Sasagawara resists using the open public toilet, might she, who as a ballerina has made her body into a work of art, be resisting the wrongful government-imposed conditions to reduce her body into its mere corporeal functions? When Miss Sasagawara compulsively tidies up the room of her neighbor’s son, might not Yamamoto be making a comment about what government is doing to this 39-year-old woman’s aspirations toward motherhood? Ironically, these questions do not occur to the Japanese American community who are so like her in their life-disrupted situation but are so unlike her in that they are eminently well adjusted to their unjust incarceration. More ironical even, these questions do not occur to the human being closest to her, her father the Buddhist priest.

Only after the War and after the narrator, Kiku, becomes a college student does there come a moment resembling satori for our hitherto naïve narrator. In her library, Kiku stumbles across a published poem by Miss Sasagawara that re-focuses the story squarely on religious issues raising disturbing questions about Buddhism<sup>6</sup> and the Japanese American community. The poem describes a man, recognizably Reverend Sasagawara, “whose lifelong aim had been to achieve Nirvana” (32). However, he was “handicap[ped]” by the responsibilities of caring for a family. But one day “circumstances” [i.e., his wife’s death and his community’s internment] liberated him from such responsibilities. “He had felt free for the first time” though others might have considered it “imprisonment.”

*It became possible for him to extinguish within himself all unworthy desire and consequently all evil, to concentrate on that serene, eight-fold path of highest understanding, highest mindedness, highest speech, highest action, highest livelihood, highest recollectedness, highest endeavor, and highest meditation. (33)*

This man, then, ostensibly becomes a “saint” (33) in terms of the Buddhist four noble truths and the eightfold path towards enlightenment. He has become an *arhant* (or *arahant*) and attained nirvana.<sup>7</sup>

However, Miss Sasagawara’s poem then questions whether this enlightenment may not have been achieved at the cost of blindness to the “human passions” of this saint’s fellow human beings, blind even to one suffering “in anguished silence, within the selfsame room” as his? If compassion must be sacrificed for enlightenment, the poem finally asks, might not the saint’s devotion actually be a sort of “madness” (33)? For indeed, the Buddhist saintliness of Reverend Sasagawara posits a solipsism that denies the realities of others. And in that sense, to deny the objectivity of reality is to be mad. Pointedly, Yamamoto’s story is NOT entitled “The Legend of Reverend Sasagawara.”

In a political sense, America could be said to have gone mad, too, for putting 120,000 guiltless Japanese Americans into concentration camps,<sup>8</sup> an action based on a

<sup>6</sup> While incarcerated in the Poston, Arizona, relocation camp during World War II, Yamamoto wrote for a Buddhist magazine (MacDonald and Newman 21).

<sup>7</sup> See, for instance, the discussion of “the character of the Arhant” in the chapter “The Perfections of the Saint” in Keith, pp. 212-214; and the nature of the “*arahant*” in the chapter “Nirvana” in Kalupahana, pp. 69-88.

<sup>8</sup> See, for instance, studies such as Michi Weglyn’s *Years of Infamy: The Untold Story of America’s Concentration Camps* or Roger Daniels’ *Concentration Camps: North America*.

solipsistic construct of Japanese Americans. (Of course, Yamamoto could not overtly state this in 1950;<sup>9</sup> it was not until forty-five years after World War II that the U.S. Congress apologized to these wrongfully incarcerated Japanese Americans and made financial redress for that madness [Ng 109, 163].)

In a psycho-social sense, the Japanese American community went mad too when they accepted their deprivation of civil rights as normal and just carried on with their dismal talent shows and backbiting neighborhood gossip in concentration camp barracks—this, too, Yamamoto could not write overtly about in 1950 when the Japanese American attitude towards their camp experience was to hush it up. In so far as the Buddhism of the Japanese Americans encouraged their attitude, Yamamoto is accusing it of encouraging this madness. The Buddhist teachings are tacitly juxtaposed against the promise of America, the eight-fold path clashes with Jeffersonian principles. Where Buddhism teaches the expectation of suffering, the American dream has promised the pursuit of happiness. Whereas the expectation of suffering leads to the acceptance of being in a concentration camp, the expectation of being American must be to resist the abrogation of inalienable individual rights and to insist upon the just application of law. For Yamamoto, then, Miss Sasagawara is the truly American hero in this community. She is unable to accept her incarceration, unable to live normally in her state of wrongful imprisonment. Her own community deems her crazy; official America puts her into a sanitarium. But Yamamoto recognized her for being the martyr that she is, a martyr whose life is fit matter for a “legend.” For Yamamoto, the ostensible saint, Reverend Sasagawara, is a disappointment. His saintliness only serves to illustrate the failure of Buddhism in this context and in the view of Yamamoto. For Reverend Sasagawara to be a true saint, Yamamoto implies, he ought not to have entered into Nirvana; rather he should have remained in the material world as a bodhisattva<sup>10</sup> to minister to the anguish of his daughter.

Confronted with stories such as “Yoneko’s Earthquake” and “The Legend of Miss Sasagawara,” readers may well conclude that Yamamoto was deeply critical and skeptical about the validity of religion, be it Buddhism or Christianity. However, at the

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<sup>9</sup> As King-Kok Cheung has observed, the “*indirect* political allusions in ‘The Legend’ . . . mirror the wartime hysteria and paranoia of the white majority [and] also reflects . . . the plight of her own ethnic group” (1991-92, 118, emphasis mine).

<sup>10</sup> As has often been described, “A *bodhisattva*, according to the Mahayana definition, is one who has postponed the attainment of nirvana in order to continue in *samsara* [ i.e., existence] in the hope of helping all beings to cross over the flood of existence” (Kalupahana, p. 124).

time that these stories were published, Yamamoto was also reading the periodical the Catholic Worker and acquiring an interest in its founder Dorothy Day and her theology of progressive social activism, pacifism, and back-to-the-land Catholicism which she practiced in her religious community on Staten Island, New York. After corresponding with Dorothy Day and meeting her when Day visited Los Angeles, Yamamoto wrote that “*Dorothy Day was the most important person in the world and, if legends were true, one of the few living saints*” (1957, p. 9).<sup>11</sup> By this time, Yamamoto’s stories were being regularly listed in Martha Foley’s Best American Short Stories and attracted the attention of no less a critic than Yvor Winters of Stanford University. He corresponded with her, and she was offered a Writing Fellowship at Stanford.<sup>12</sup> Yamamoto refused the offer and instead joined the Dorothy Day religious community and worked in the Peter Maurin Farm on Staten Island (1994, 67). At a crucial time in her literary career, therefore, Yamamoto made a choice to live and work in a religious community rather than to practice the craft of fiction in academe.

It is amply evident, then, that religion, be it Buddhist or Christian, has mattered profoundly both in Yamamoto’s art and to her life. Deeply engaged by religious faith, she also reserves the ability to think critically and write challengingly about it.<sup>13</sup> To religion, Yamamoto brings a spirituality that is more than reverence: it is also interrogative, iconoclastic, and, therefore, exciting. So, although in a recent interview, Yamamoto calls herself a Christian, she also describes herself as a “Christian anarchist” (85). Yamamoto readers, therefore, should beware, for there are theological explosive devices buried in her subtext.

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<sup>11</sup>Yamamoto’s 1957 appellation of Dorothy Day as a saint is uncannily prescient, for in 2012, the Catholic bishops of America unanimously voted to recommend the canonization of Dorothy Day (<http://www.catholicworker.org/dorothyday/servant-of-god.html>). It is also noteworthy that when Pope Francis made his historic speech to a joint session of the U.S. Congress on 24 September 2015, he invoked the examples set by four Americans: Abraham Lincoln, Martin Luther King, Jr., Dorothy Day, and Thomas Merton (<http://time.com/4048176/pope-francis-us-visit-congress-transcript>). In Dorothy Day (1897-1980), Pope Francis saw a beacon of Christian social activism: “In these times when social concerns are so important, I cannot fail to mention the Servant of God Dorothy Day, who founded the Catholic Worker Movement. Her social activism, her passion for justice and for the cause of the oppressed, were inspired by the Gospel, her faith, and the example of the saints.”

<sup>12</sup> Matthew Elliot has provided a detailed analysis of the correspondence between Yamamoto and Yvor Winters.

<sup>13</sup> For another instance, in her memoir piece “The High-Heeled Shoes,” Yamamoto adopts a feminist stance to criticize Gandhi, whom she describes as “one of the men suspected of sainthood” (1988, 5).

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## **Professional Learning Communities: A Vehicle for Global Learning**

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### ABSTRACT

This article describes how Professional Learning Communities (PLCs) were implemented with 110 Indian teacher educators who completed a three-month residency program at a large university in the southwest United States. Using structured opportunities and safe space, Indian educators engaged in critical thinking and discussion about local educational issues and were able to explore ideas for local reform while generating new solutions. Results indicate that PLC structures that were established in the United States assisted them in understanding the local issues better and provided them with tools for long-term and sustainable changes that they could use after they were back in their own communities. Findings have implications for researchers and teacher educators who are involved with creating professional learning opportunities for educators across the world.

Keywords: Professional learning communities, global learning, teacher education, teachers

### 1. INTRODUCTION

Global learning is viewed as an educational process where all stakeholders (including faculty, students and staff) participate and engage in creating knowledge, skills and attitudes about the world's issues that affect schools, students, and teachers (Hovland, 2014). Global

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*Acknowledgment:* This study was made possible under Cooperative Agreement AID-386-A-13-00005, United States Agency for International Development (USAID). The contents of this document do not reflect the views of USAID, Ministry of Human Resource Development of India, or the United States Government and no official endorsement by these agencies should be inferred.

learning is an effective method for educational change and reform. Some professionals view change as a chaotic and unpredictable process that is guided by an ideology or a fad rather than a process that results from systematic learning from people in professions (Abrams, 2016; Adamson *et al.*, 2016; Shirley, 2016). For example, in the United States of America, the legislative passing of No Child Left Behind (NCLB) emphasized standard-based reform and expanded the federal role in public education while emphasizing annual testing and academic progress, school report cards, teacher evaluation, and significant funding changes. Though NCLB provided a framework for the evaluation of student performance through use of standards-based measures – it was recognized that this top-down approach toward school governance was not effective in establishing the most effective educational experience for all students. Educators were removed from a decision-making role within their classrooms; with summative measures of student performance serving as primary indicator of educator effectiveness.

Many education critics and policy makers viewed NCLB as detrimental to school success due to several reasons including negative effects on students with disabilities, English language learners, and minority populations. Many professionals resisted this change by refusing to implement NCLB standards or creating variations they deemed more useful. As time has passed, researchers, practitioners, and policymakers have shared their understanding of the issues resulting from NCLB igniting suggested changes at the federal level, resulting in the [Every Student Succeeds Act](#) (ESSA) on December 10, 2015. ESSA affords more local control and flexibility in schools with regards to setting their own standards for measuring school and student performance. Examination of the detrimental impact of the NCLB model suggested value of a framework for collaboration and consultation among educators both at their local level – as well as within their content area of expertise and specialization.

When the need for reform is carefully studied and is guided by a research-based process and evidence that improves learning (Bryk and Schneider, 2002; Payne, 2008), it is likely to be accepted by educators. Governmental policies that are implemented without professional guidance from the field is an example of unpredictable change having potential for unintended negative outcomes. For example, zero tolerance policies that were implemented as a means of managing undesirable student behavior in traditional US schools often result in negative student outcomes such as high dropout rates, juvenile delinquency, and disengagement (Skiba, and Rausch, 2005). Many professionals came together to discuss the negative outcomes resulting from these policies, and suggested modifications and adjustments (Shirley and

MacDonald 2016; Zhao, 2009) and the need for positive change in disciplinary practices in schools.

Both predictable and unpredictable events and trends can offer opportunities for global learning in the teaching profession. In order to promote healthy change, it is important that both time and creative learning environments are afforded to educators where they can discuss policy-related issues, share wisdom with peers, and use methodologies that are open ended and flexible. When educators have opportunities to collaboratively examine their day-to-day practice, engage in reflective dialogue for continuing conversations about curriculum and instruction, and review research findings outside of the classroom settings, they are more apt to acquire new knowledge, skills and attitudes that promote the creation of new ideas and solutions to global issues.

**World as a global classroom.** When educators view the world as a global society with multiple forms of diversity, they have the potential to create the flexible environment necessary to allow diverse learners to consolidate their innovative ideas. They connect and learn with and from each other, where there is no hierarchy of learning, and no single dominant group delivering the information to another group because all voices are equal.

Collaborative thinking is central to the creation of global learning opportunities and requires latitude for creating and exchanging ideas and then practicing those ideas in safe nonjudgmental environment. The introduction of global customs, traditions, language and ideologies into the learning environment brings excitement and engagement for learners. By discussing teaching practices that globally affect learners from all countries, educators can enhance personal awareness about their local areas and can begin to recognize new teaching opportunities in all types of landscapes from small towns in underdeveloped countries to metropolitan cities in first-world countries.

The opportunity to create new solutions to old problems is not only an exciting venture for many educators, but also creates ownership of the idea. Global learning in the teaching profession can result in four outcomes (Hovland, 2014; Schachter, 2011) related to educators' knowledge base, skills, attitudes, and application.

1. Gaining knowledge about world problems faced by teachers and students. If we want school children to work for a better world, teachers must expose them to the nature of world problems, their causes, and viable solutions.

2. Acquiring skills that are necessary to solve world problems. These skills are: better communication, critical and creative thinking, cooperative problem-solving, conflict resolution, informed decision making, and the ability to see issues from multiple perspectives.
3. Attaining global attitudes that include global awareness, curiosity, an appreciation of other cultures, respect for diversity, a commitment to justice, and empathy with others.
4. Creating global education that relies on democratic participation in the local and global community to solve world problems in teaching.

Statement of Purpose: The purpose of this article is to describe and examine the process by which Professional Learning Communities (PLCs) were implemented within the three-month residency program for 110 Indian educators. PLCs created structured opportunities for Indian educators to engage in critical thinking and discussion about educational issues in their local areas that were oftentimes connected with global issues. The article also articulates the rationale for why PLCs were considered an appropriate vehicle for global learning and capacity building for both Indian and US educators. Readers are encouraged to contact the authors for additional details on the whole three-month residency program consisting of core coursework in teaching and learning, technology, gender equity, ethics, democracy, philosophy in education, leadership and electives. School visits, living arrangements, and Indo-US community building activities were also a significant part of this experience. However, the focus of this article is to only describe the role and rationale for PLCs within the residency program and the process of implementation and evaluation.

## 2. PLCS FOR GLOBAL LEARNING AND CAPACITY BUILDING

A PLC is defined as a group of educators working together toward a common goal. These groups of educators serve as a professional community of learners, who share expertise and work collaboratively to improve teaching skills and academic performance of students (DuFour *et al.*, 2008). A PLC model has the potential to establish a mechanism by which knowledge, awareness and expertise at the local level could be extended to engage and inform the state, national, and global educational community. PLCs are not a prescriptive, one-size fits all approach, or an insular way of gaining skills and knowledge. Instead, they systematically provide support to educators in making decisions based on local contexts, professional goals, and student needs. PLCs inherently acknowledge the importance of existing knowledge, experiential learnings, and scholarly research theory. Through collaborative inquiry, educators

explore new ideas, and examine and refine their current practice to improve student learning (DuFour *et al.*, 2008).

Research indicates that educators from developing countries are accustomed to complying with a top-down approach and less engaged with collaborative problem solving processes at the grass root levels (Fullan and Watson, 1999; Sai and Siraj, 2015). Their knowledge base about collaborative processes comes from theoretical information they have received from trainings or coursework and not necessarily from actual engagement in peer collaboration that supports local action (Fullan and Watson, 1999; Sai and Siraj, 2015; Verger, Altinyelken, and Koning, 2013). Although the educational contexts of the two countries, USA and India, are quite different, PLCs were considered an important component of the residency program to facilitate a culture of collaborative problem solving and critical thinking around several global educational issues that are relevant for both countries.

### *2.1 Educational Context of the US*

All children from kindergarten to 12<sup>th</sup> grade (k-12) have access to free and compulsory education. The state governments set overall educational standards, often mandate standardized tests for the public school systems and provide tracking and monitoring of policies. About 90% of school-age children attend public schools, about 10% attend private schools or are home-schooled. The Elementary and Secondary Education Act (ESEA) passed in 1965 and provided funds for primary and secondary education. The Education for All Handicapped Children Act established funding for special education in schools in 1975. These laws have contributed toward making education equitable and accessible for children with and without disabilities. More recently, in December 2015, President Barack Obama signed legislation replacing NCLB with the Every Student Succeeds Act allowing more flexibility in decision making for the local education agencies.

In 1986, the Carnegie Task Force produced a report called *Teaching as a Profession* that emphasized the effective teachers would produce better students. The Holmes Group (1986) consisting of a professional group of university deans, scholars, analysts, policy makers, and teachers and teacher educators argued for the need to build a more knowledgeable and skillful professional teaching force. As a result, policy initiatives have launched, professional standards have been designed to strengthen teacher education and certification requirements. Schools have been encouraged to increase investments in

induction programs, mentoring and professional development, and transformed roles for teachers. Despite initiatives towards making teaching a profession, there have been several attacks on teacher education and intense debates have occurred about whether preparing and supporting teachers make a difference. Linda Darling-Hammond (2010) has summarized the complexity of these issues as follows. *“For teacher education, this is perhaps the best of times and the worst of times. It may be the best of times because so much hard work has been done by many teacher educators over the past two decades... It may equally be the worst of times because there are so many forces in the environment that conspire to undermine these efforts”* (p. 35).

## 2.2 Context of India.

Just like in the US, several laws and policies in India have been passed after the independence in 1947 to establish educational rights for all children. The three major developments in recent years provide the background to the present changes and reform in teacher education. These developments include (1) political recognition of Universalization of Elementary Education that led to the Right to Education Bill, 2008; (2) the Persons with Disabilities Act and (3) the formulation of the National Curriculum Framework (NCF) for school education, 2005. The essence of the Right to Education Bill is to provide free and compulsory education to all children in India without discrimination. The Right to Education Act mandates the states to provide free and compulsory education to children ages 6 to 14. The Persons with Disabilities Act outlines the basic rights for children with disabilities. These laws mandate a free education for children with equal access to learning opportunities, equity, and respectful treatment and attempt to reduce the social divide between the education of the rich and the poor. The laws provide guidance for minimum qualifications of teachers and quality of educational experiences, curriculum, and instructional process (National Council for Teacher Education, 2009). In 2005, the formulation of NCF assisted in viewing teaching as a profession and not just a process of transmission of facts (NCERT, 2005, p. viii). The NCF framework emphasized equity, access, use of community resources in education, integration of technology, and e-learning in curriculum development and instruction.

To promote the overall quality of teacher education and to organize pre-service and in-service training opportunities for teachers, the State Councils of Educational Research and Training (SCERT) and District Institutes of Education and Training (DIET) were established. These laws and initiatives have increased the demand for qualified elementary school teachers

who could assist in making education more equitable, engaging, and effective for all students. The Government of India has extended tremendous effort toward changing teacher education to be more accessible, inquiry-based, inclusive and democratic in values and ideals.

A three-month residency program was designed to assist Indian teacher educators to meet the local, regional, and national challenges by reforming their own practices in ways that align with national priorities and aspirations for 21st century education. It was based on the premise that by engaging in critical reflection and interaction with others who share similar training, educators increase their professional knowledge and enhance student-learning experience (Buysse, Sparkman, and Wesley, 2003).

### 3. METHOD

#### *3.1 Participants and Setting*

Participating Indian educators ( $n=110$ ), were selected by the government of India, Ministry of Human Resource Development (MHRD) to complete a three-month residency program at a state university located in the southwest region of the US. The residency program was offered in two cohorts, the first (Cohort 1) in fall 2013 ( $n=53$ ) and the second (Cohort 2) in fall 2014 ( $n=57$ ). Indian educators represented the northeastern states of India including Uttar Pradesh, Uttarakhand, Assam, Odisha, Bihar, Meghalaya, Nagaland, Chhattisgarh, and Madhya Pradesh. Most participants were teacher educators representing their DIETS accompanied by a few administrators and lecturers from the state teacher education agencies. Participants represented a wide range of proficiency in spoken and written English and technology. Before coming to the US, participants went through a pre-departure orientation that prepared them for successful entry into the unfamiliar culture of the host state university and the US and for understanding the expectations of the residency program in teacher education.

All Indian educators in both cohorts participated in theoretical and experiential learning opportunities consisting of coursework, the local school visits, and PLCs. The coursework for Cohort 1 included instruction in technology, gender equity, ethics, democracy, effective instruction and PLCs. MHRD in collaboration with Indian teacher education experts requested some changes to the coursework for Cohort 2 to include a strong foundational background in philosophy of education, gender equity concerns, and electives. PLCs were viewed as an important component of the program for both Cohorts. Each cohort stayed together during the residency program consisting of coursework and onsite and offsite educational and social experiences. Both cohorts were given the opportunity to experience the field-based teacher

education in the US and compare to their own local contexts in India. Faculty from the host university in the US provided them with continuous coaching, mentoring, and feedback as the cohorts examined their existing knowledge and acquired new ideas and skills. The local school visits provided insight to the field component of teacher preparation and the host university's partnerships with local schools.

### *3.2 Procedure*

Indian educators came from various states from the northeastern region and did not have experience of collaborating with each other prior to getting selected for the residency program. In order to encourage and foster Indian educators' involvement in PLCs, it was important to spend time in developing trust with each other. Trust building exercises were incorporated where Indian educators had to rely on each other for day to day activities such as getting groceries and food items, making arrangements for transportation, sharing information on assignments, working with technology, etc. In addition, it was essential to consider differing attitudes towards collaboration and design the PLCs in a way where Indian educators would feel safe and comfortable in sharing ideas and opinions.

#### **1. Developed a Course.**

To provide fundamentals of PLCs, a professional development course was developed where Indian educators were taught the basic concepts and tenets of PLCs. The course topics included: Theoretical framework of PLCs; rationale, benefits, and essential ingredients; evolution of PLCs, shared values, collective inquiry, and goals; effective facilitation with equity and inclusion; evaluation of PLCs; the need for PLCs for local reform; structuring and implementing PLCs in local settings; and structuring PLCs in educational reform proposals. Cohort 1 received ten 1-hour sessions in the course topic of the week. Cohort members engaged in the first part of the session as a large group. The instructor presented the PLC topic and discussed the readings and case studies weekly. For example, the topic for the first week was theoretical framework of PLCs and the differences between training and professional development as it relates to teacher learning were discussed. The differences between issues of pre-service and in-service were highlighted. Following the instructor's presentation, cohort members participated in their own PLCs for 20-25 minutes and discussed the relevance of the content in their local context.

Instruction time for Cohort 2 was extended to two hours based on the feedback received from Indian educators in Cohort 1. In the first hour of each session, Cohort 2 members

developed the concepts and elements in larger groups. This was followed by a 1-hour engagement in PLCs.

## **2. Developed Rationale**

The role of PLCs in collective inquiry was discussed. A rationale was developed for why PLCs were a reasonable choice to foster a sense of community of practice and to develop a widely shared vision and sense of purpose. Common needs and issues facing teacher education in two democracies were identified. Examples included: a lack of connection between theory and practice in teacher education; issues of gender inequity in elementary school teachers (more female teachers and less male teachers); classroom management and discipline; issues of poverty, social disadvantage, and homelessness. Etiquettes and norms of involvement and decision-making were explored to ensure all voices were equal and there was no dominate group.

## **3. Established PLC Culture**

Collaborative learning as a purposeful activity was established. Processes requiring collaboration do not come easy to all members, particularly those from communities that are accustomed to working in formal hierarchical structures. It was important to establish collegial relationships across all age groups, positions, locations, and gender as these factors relate to the educational outcomes for students. Global issues surrounding the teaching profession were identified. Emphases were given to issues that appeared to be within the cohort's control and were referred to as alterable conditions. Factors that were beyond control were discussed and were identified as unalterable. PLCs served as a vehicle for global learning, where Indian educators worked together and shared commitment to incorporate collaborative practices for local reforms.

## **4. Created PLC Structures**

The formal structures of educational agencies represented by Indian educators, such as SCERTS and DIETS were discussed. The formal US educational system including local education agencies, the US Department of Education, State Department of Education/Certification and Exceptional Student Services were also shared. An effort was made to create a dynamic and tacit design to promote linkages between professional learning and local reform (Wenger, 1998). PLCs were viewed as collegial groups of professionals with a shared commitment to higher levels of learning for themselves and for preschool to 12<sup>th</sup> grade students. The PLCs also developed a shared vision of local reform. Participants worked and learned collaboratively, they developed interdependence and engaged in joint decision-making

(DuFour *et al.*, 2008). As a professional development approach, they were encouraged to develop their own “community of practice” where they engaged in collaborative inquiry, problem solving, and reflection to generate and share new learning about issues and solutions. Cohort 1 relied primarily on geographical proximity (e.g., participants from one state preferred to be with educators from the same state), whereas Cohort 2 chose to form their own PLCs based on their topic interest (e.g., those interested in math joined together).

### 5. Facilitated PLCs

During the PLCs discussions, many Indian educators shared that their educational systems had traditionally been highly hierarchical. Structures for community building, grouping and peer learning were nonexistent. This was evidenced by beliefs that they were expected to follow the rules and instructions established by DIET and SCERT. They reported they had limited input in the selection of instructional modes, curriculum, textbooks, and topics of professional development. Their reflection corroborated the findings from research conducted in several developing countries including India (Sai and Siraj, 2015; Shah, 2015, Westbrook *et al.*, 2013). The concept of lifelong learning was not fully understood or implemented despite changes in the global discourse on lifelong learning and its advocacy by transnational organizations like the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the European Commission (Shah, 2015).

Two graduate students assisted in the facilitation of PLC group processing. Eleven PLCs were established in Cohort 1 and seven in Cohort 2. Group facilitators were designated for each cohort. Various ways to define PLCs were discussed, such as role-based PLCs (reading vs. math teacher) and expertise-based PLCs (elementary vs. secondary). Each definition distinguished a unique type of grouping or highlighted specific aspects related to the purpose and function of the respective group. During these discussions, Indian educators were asked to develop a shared mission and vision, articulate collective commitments based on consensus, and develop specific goals and plans.

During PLCs, opportunities were created for Indian educators to reflect on their own learning of new concepts and to clarify weekly concerns related to their coursework, readings, and other critical issues. They were encouraged to connect program content, discussions, and readings to the development of reform proposals. They assisted one another in aligning newly learned concepts within the development of their reform proposals. They were asked to situate their local reform plans in a larger global context and were encouraged to envision the importance of widespread changes while setting realistic and measurable reform goals.

### 6. Evaluated PLC course

Much of the evidence base is derived from self-report by Indian educators, reflection of the PLC instructor and facilitators, and course evaluation data.

Self-report surveys were gathered from participants requesting them to highlight the aspects of PLCs that seemed to work for them in their local reform, challenges they encountered and supports they received after they went back to India. Findings and reflections are discussed in the results and discussion section.

#### 4. RESULTS AND DISCUSSION

As mentioned earlier, PLCs' configurations for the two cohorts were different. Cohort 1 relied primarily on geographical proximity, whereas Cohort 2 chose to form their own PLCs. The Meghalaya PLC in Cohort 1 was one of the highly functioning groups that continued to work collaboratively upon their return to India. This PLC was strategic and coordinated in their design encouraging each member wrote a reform proposal that supported a different key aspect of the statewide teacher education context: school internships, student teacher assessments, classroom practices, information and communication technologies, professional development of teacher educators, and protocols.

About 30% participants consisting of 17 of 53 in Cohort 1 and 22 of 57 in Cohort 2 responded to self-report surveys. While some Indian educators reported challenges gaining their colleagues' support, the majority (9/17; 53%) of Cohort 1 respondents indicated that their coworkers have been supportive of reform initiatives. For Cohort 2, the majority (14/22; 64%) felt their colleagues were supportive in helping them create change. They were also asked about the helpfulness of the various types of support. The two most helpful forms of support reported by Cohort 1 were emotional support (13/43; 30%) and observation feedback (12/43; 28%). For Cohort 2, the most helpful forms of support included coordination (13/44; 30%), observation feedback (9/44; 20%), advocacy (7/44; 16%), emotional support (7/44; 16%), and feedback (6/44; 14%). They were asked if they were continuing with their PLCs that were initiated at the host university in the US. Survey respondents (13/17; 76%) indicated a range of collaboration from some to a substantial amount that continued with the members of their PLC. 32% (7/22) of Cohort 2 respondents reported some collaboration with members of their PLC, while 27% (6/22) reported collaboration taking place a lot of the time.

Participants were queried whether new PLCs were created with local colleagues. The majority (15/17; 77%) of Cohort 1 stated that they did not continue with the same PLC members. Participants reported phone calls, email and social media as the method to best

collaborate within a supportive PLC. Additionally, many participants reported WhatsApp and face-to-face meetings as being useful. Cohort 2 closely mirrored Cohort 1 in the creation of new PLCs. Results indicate that with structured opportunities, a range of learning experiences, and meaningful human and social resources, PLCs became one of their preferred methods for experiential learning. Even if they were not able to continue with the structures that were established at the host university, they created their own PLC structures that were meaningful for their local settings.

## 5. WITNESSING THE PROCESS: REFLECTIONS

US teacher educators from the host university created their own PLC and shared experiences to modify instruction. They saw the need to be sensitive to various educational backgrounds and cultural norms and stayed open and receptive to curricular and instructional adaptations. US educators learned about the role of Indian government in administering local public education and organizations in reaching the hardest to reach in attitudes and dispositions or difficult to reach geographically. Educators in the US gained an appreciation for the fact that the Indian educators effortlessly managed large class sizes (40 to 50) with limited resources and infrastructure. They were amazed to learn that almost all Indian educators were bilingual or multilingual. In general, US educators reported that PLCs appeared very interested in what they were learning, were conscientious, and were respectful of the instructors/professors. US educators took notice of distribution of power in PLCs in how Indian educators were willing to listen to those who had recognized positions in their communities while sometimes not actively attending to the ideas of those who are seen as less influential. They also developed a more critical view of gender inequality as it related to the experiences of girls and women in India.

By allowing for open and honest discussions within PLCs, participants oftentimes reported that they were experiencing similar issues and pressures as other colleagues from different states of India. Not only that, they also realized some of the pressures were similar to those faced by educators in the US. By engaging in collaborative learning processes, it was possible to generate solutions to the common issues. One of the participant from Cohort 1 stated “I have learned how to promote learning through collaboration. PLC is really helpful in sharing expertise, ideas and knowledge. My student teachers shared their skills in the field of technology.” In response to how they were bringing changes to their local settings, one participant from Cohort 2 stated “Now we are institutionalizing PLCs in the system by making

it mandatory for schools to get scores in their evaluation. They are using social media to connect. PLCs on science experiments, math, sports, and quality education are being formed. Now, I am planning to develop some guidelines for PLCs and experiments in science and language teaching for early grades.” Another pointed out “...it will be more beneficial if the participants from different countries will be invited instead of only one country.”

In July and December of 2015, faculty members of the host university from the US made site visits to India and had the opportunity to meet with several Indian educators from both cohorts. The findings from the meetings and site visits also indicated that Indian educators had taken the concepts of PLCs and applied them as they saw them fit in their own environments. In a close out event that was scheduled in March 2016, about 30 Indian educators came to attend the event and shared their reflections about various program components of the residency program. 90% of them indicated that they were using PLCs and were finding the framework of PLCs to be extremely meaningful and beneficial in moving reform agenda forward in their local settings. They were impressed with the use of inclusive practices and positive behavior supports in the US schools and were ensuring that they were also applying similar strategies in their local settings. Indian educators appreciated learning about collaborative learning structures, such as co-teaching and few were able to apply that in their settings. They appreciated time management strategies, hands on activities in classrooms, and planning and delivery of instruction. For many Indian educators, this involved a shift from passive to active learning, from teacher- to student-centered classes.

## 6. CONCLUSION

This article focuses on experiences with 110 Indian educators who went through the process of establishing collaborative learning structures of PLCs. Peer learning, shared vision and collaborative structures that are viewed as essential elements for effective PLCs (Wei *et al.*, 2009) served them really well even after they moved back to their local settings in India. They continue to share information with the host faculty from the US about how PLCs transformed their own thought process about professional learning and how with new learnings, attitudes and values, they are continuing to work toward bringing local changes. They continue to share, with the host faculty from the US, their products (videos, media clip, and published articles) that show how they have transformed their own thought process of professional learning. With new learnings, attitudes and values, they are continuing to work toward bringing local changes. The cohorts learned how to create self-organized learning environments.

Additionally, they are now able to connect with their counterparts in India in meaningful ways in order to co-construct new knowledge about global learning and are implementing local reforms in Indian teacher education.

Discussions within the PLCs provided opportunities for better understanding of local issues, developing creative solutions, and promoting collaborative partnerships with other professionals. Both Indian and US educators raised their awareness about issues that their respective democracies were facing, such as gender equity, racial parity, poverty and social disadvantage. Although the local contexts for professional learning in the two countries are quite different, PLCs provided educators from both the countries to build a culture of collaborative problem solving and critical thinking around global educational issues. The findings indicated that PLCs not only supported local reforms in India but also developed broader understandings of global issues that the profession of teacher education currently experience.

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## Separation and Longing in *Viraha Barahmasa*

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### ABSTRACT

It is true that migration, geographic dislocation and in some cases spiritual-separation experience, differently impact the lives of women and men. In this paper my propositions furrow through the general landscape of the genre of *Barahmasa* (song of twelve months), a tradition of poetry writing that intersects the socio-cultural and religious traditions of North India, ancient and modern. The paper uses the ethos of longing of the *Barahmasa* alongside John Hawley's concept of 'Viyoga' as a frame to posit the changing patterns of this evolutionary genre. (1981) In a way the paper attempts to present a kaleidoscope, rather a mosaic of recast registers, transformed texts and translated ideas with only one family foci: yearning. The paper concludes with the breakdown and deconstruction of conventional gender stereotypes in its description of the devotional *Barahmasa* of the *sants* (saints) specially the Radhasoami tradition.

Keywords: Barahmasa, Viraha, Virahini, Viyoga, Radhasoami, Sants

### 1. INTRODUCTION

It is true that *Barahmasa* literature has always been a noteworthy resident in Indo-Aryan literatures. *Viraha Barahmasa*, (poems/song of twelve months of longing) which, revolves around the theme of painful separation of the beloved from her lover is at the centre of the ever-growing repertoire of *Barahmasa* literature. With the critical positioning of 'feminine longing' at the center, the poetic form has been primarily written by male poets capturing the agonies and pangs of separation of women. On the same register, 'Religious' *Barahmasas*, popular from the medieval Indian times, have symbolised the acute pangs of the human soul for divine spiritual love, and have been extensively used by the Indian Sufis and *Sants*. The persistent motif is the separation and the longing of the human soul for God. In all, taking into account the multiple and changing manifestations of religion in diverse social and cultural contexts, the

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paper analyses and reflects critically on *Barahmasa* in general and *Barahmasa* from *Sarbachan*<sup>2</sup> by Shiv Dayal Singh (Soamiji Maharaj) the founder of one of the modern, 'New' religious movements of India, the Radhasoamis, in particular, as an unconventional indulgence of neutralization of gender roles.

The study of mythology and early religion in relation to women became a significant growth area in women's studies toward the end of the last century, feeding from and into other disciplines such as history, anthropology, theology, and literature. (King 2011, 52) In fact, they have spilled over from the shelves of theology and entered critical spaces problematised by women scholars. For French feminist critics like Julia Kristeva and Luce Irigaray, the role of the literature, religious traditions and mythology is central to an understanding of women's position in earlier societies and even today.

## 2. THE ETYMOLOGY OF BARAHMASA

*Barahmasa* literally means twelve (*Barah*) months (*Masa*). It is a poetical form evolved round twelve months of the year. The female voice, her pining for and loyalty to her absent lover and the calendrical cycle are the core elements of a matrix that poets from a wide variety of cultural backgrounds took up and modulated according to their specific taste and inclination. In *barahmasa*, the woman called *Virahini* (literally a woman bitten by the pangs of separation: *Viraha*) pines for her absent lover or husband and describes her pitiful state, month after month, against the backdrop of seasonal changes and ritual events. Sensitivity to nature and its changing moods go back to the very beginnings of Indian Literature, the *Rigveda*. Even the *Taittiriya Samhita* has names for the twelve months beginning with the two months of the spring season: *Madhu*, *Madhava*, *Shukra*, *Shuchi*, *Nabha*, *Nabhasya*, *Isha*, *Urja*, *Saha*, *Sahasya*, *Tapa*, and *Tapasya* that are now all but forgotten, even lost<sup>3</sup>. Francesca Orsini (2010) uses the term 'abandoned'<sup>4</sup> for the pining woman, but in the Indian context it has to be understood a little differently and a lot more contextually. It is true that often, Indian men, in search of livelihood or otherwise would travel to distant lands leaving behind the women and family. As an example, even today, in the upper Himalayan region of North India, from Chamba and Bharmour, Himachal Pradesh, the tribal Gaddi men would travel with their cattle

<sup>2</sup> Composed in 1880s in Hindi and Urdu (1<sup>st</sup> edn. 1938, 8<sup>th</sup> edn. 1982) Radhasoami Satsang Sabha, Dayalbagh, Agra.

<sup>3</sup> B N Goswamy, "Seasons of Longing" Sunday, December 7, 2003 Spectrum, *The Tribune*. Accessed on 11 01 2011 <http://www.tribuneindia.com/2003/20031207/spectrum/art.htm>.

<sup>4</sup> F Orsini (Ed.) *Before the Divide: Hindi and Urdu Literary Culture*. Orient Blackswan, New Delhi 2010, 121-142.

and sheep to the upper regions of Lahaul and Spiti of the Himalayas during the summers. They would return back after many months. Several songs and folk legends abound narrating the separation of the men from their women. (*Sunni Bhoonku* folktale and song is one such example) Today, *barahmasas* are perceived as both, a kind of folk song as well as a religious song of separation of the spirit and the soul (as in the religion of Saints), but a significant literary tradition attests to the attractiveness of this template for poets in all the literary languages of north India for centuries. The 12 months of the Hindu calendar under discussion in *barahmasa* tentatively correspond to the English calendar in the following way, *Ashadh*: June; *Sawan*: July; *Bhadon*: August; *Kwar*: September; *Kartik*: October; *Aghan*: November; *Poos*: December; *Magh*: January; *Phagun*: February; *Chet*: March; *Vaisakh*: April; *Jaith*: May. The *Barahmasa* like the *Chaumasa*, 'Song of the four months' (of the rainy season) is also an ancient folk form, still alive in rural India.<sup>5</sup> Both essentially belong to oral literature, and were originally centred around village women. When written or documented beginning from medieval times, most of the authors of these feminine narratives were men.

### 3. BARAHMASA: DEFINING ITS GENRE

*Barahmasas* are found at the beginning of literary writing in several neo-Indo Aryan languages and the genre is characterised by remarkable ubiquity and flexibility.<sup>6</sup> Orsini calls it an 'Intermediary genre' that falls in between the high literary tradition of Hindi, *riti* poetry in Braj Bhasha, and the high literary tradition of Urdu, centred mainly on the *ghazal*<sup>7</sup>. As such, *barahmasas* represent a kind of 'open' or 'dialogic' genre.<sup>8</sup> Their worth merits an understanding of spaces that fall between and beyond the canon. This is amply clear by looking at compositions by Sants in Nagari Rekhta and Sufi poets mingling of Hindavi with Persian.<sup>9</sup> Whatever their specific motivations, there was enough awareness of multiple literary models

<sup>5</sup> Hawley writes that, very little has been written on the *caumasa*, similar genre, and few examples have been presented in print. See, e.g., Vidya Cauhan, *Lokgito ki Sanskritik Prstibhami* (Agra Pragati Prakasan 1972) 239. On women's songs generally, see also Winifred Bryce, ed., *Women's Folk-Songs of Rajputana* (New Delhi: Government of India, 1964); Ramnares Tripathi, ed., *Gram-Sahitya* (Sultanpur: Hindi Mandir, 1951) 1. 257-372.

<sup>6</sup> For a full study of early *barahmasas*, see Charlotte Vaudeville's *Barahmasa in Indian Literatures*, Orient Book Distributors, Delhi, 1986.

<sup>7</sup> Riti Poetry was written from 1600 AD to 1850 AD: the scholastic Riti period (*Kal*) of Indian poetry. Poets employed Braj Bhasha, an unofficial dialect of Hindi spoken colloquially by natives of the region of Braj Bhoomi. Ghazal, having its origins in 6<sup>th</sup> century Arabia, may be understood as a poetic expression of both the pain of loss or separation and the beauty of love in spite of that pain. Ghazal spread in India around the 12<sup>th</sup> century with the arrival of the Moghuls.

<sup>8</sup> T D Bruijn's essay "Dialogism in a medieval Genre: The case of the Avadhi Poets" focuses heavily on the dialogic and conversational elements in Orsini Francesca (Ed.) *Before the Divide: Hindi and Urdu Literary Culture*. Orient Blackswan, New Delhi 2010, 121- 142.

<sup>9</sup> Orsini questions, Why did a *Sant* write in Nagari Rekhta? Why did a Persian poet or an Avadhi Sufi mix Hindavi and Persian? Why did a sophisticated Rekhta poet like Uzlat write a *barahmasa*?

and a keenness to experiment with other literary or oral traditions. A rough typology of Hindi and Urdu *Barahmasas* is enough to show the multiple positions they came to occupy in the literary field.<sup>10</sup>

Though, the well-known *Barahmasas* are said to be the ones in Hindi and Urdu, there is a significant body of *Barahmasa* in other Indian languages too. In Sindhi *Barahmasa* is called *Barahamhina* originating in Sanskrit literature. An interesting thing about the Sindhi *Barahamhina* is that there is a changing mood and facet of human love according to the Seven days a week. Among the modern poets, Amrita Pritam of Punjab has written an artistic *Barahmasa*. Its subject matter is revolutionary and different from that of others of this category. Mulla Daud in 14<sup>th</sup> century was the first poet who wrote two *Barahmasas* in his great narrative poem *Chandayan*<sup>11</sup> (Datta, 2006: 381). *Barahmasa* in Hindi are mostly separation songs. Written for several purposes, they express the miseries and pangs of the beloved. They commence variously from different months: from *Ashad*, from *Savan* and the like. Most importantly, though they strike a poignant note of sorrow at the beginning, most of them end at a note of happiness upon the return of the husband/beloved. Stepping back from the above discussion for just a while, it would be interesting to get a glimpse of this genre's brief excursus in the field of painting.

#### 4. BARAHMASA: A SOURCE OF INSPIRATION IN PAINTING

*Glancing at the amaranth's blossoming sprays  
Glowing in exquisite loveliness just-revealed  
Loveliness that rightly belongs to the beloved's face<sup>[SEP]</sup>  
How can a responsive heart not flutter in pain  
Stung by proud Love's flying arrows, my love?*

-*Ritusamharam*, Kalidasa<sup>12</sup>

The above verse is just one example of the inspiration that led many artists to create finely crafted miniature paintings, made in Rajasthan or the Hilly (*Pahari*) areas of India,

<sup>10</sup> Orsini provides this list: Religious poems (Jain barahmasas, Mirabai, Guru Nanak, Guru Arjan, Soamiji Maharaj); Part of longer narratives (Padmavat, Bisaldev rasau); Braj Bhasha riti poems (Keshavdas, Lakhansen), sometimes to accompany miniature albums and palace wall paintings; Urdu (Rekhta: fusion of Hindi and Persian) poems both before and after 1700 (Uzlat, Afzal). And, printed in the nineteenth century: poems by popular urban Urdu poets (Maqsud, the anonymous author of Sundarkali and Ranj); songs printed singly and in collections in both Nagari and Urdu script (Khairashah, Harnam, etc.); short religious songs (Benimadho, etc.)

<sup>11</sup> A Datta. *The Encyclopedia Of Indian Literature, Volume One (A to DEVO)*, Sahitya Akademi, New Delhi 2006, pp.381

<sup>12</sup> Said to be a classical Sanskrit poet who lived around 1 BC, Kalidasa's *Ritusamharam* is an epic poem in Sanskrit that revolves around the six seasons. The ever changing landscape of the changing seasons are depicted against the thematic backdrop of the reactions of two lovers.

centuries later - all on the theme of *Barahmasa*! The setting is always intimate, romantic: lovers seated in a balcony or on a marble terrace, gazing into each other's eyes while the beauties of the seasons spread out all around them like a tapestry. The context almost always is that of the impending departure of the lover for some distant land, and the beloved, the heroine (*nayika*), pleads with him not to leave that month, for are not the lovely sights and sounds of the month things they should share, in togetherness? But, assuming for a moment, that the lover does agree, and does not leave, much the same happens the next month, for nature reveals more, or different, beauties, and the beloved takes the same plea again.

Today, interest in *Barahmasa* painting and poetry is being revived. Some works of Kripal Singh Shekhawat, the distinguished traditional artist from Jaipur and a book of poems *Yashodhara: Six Seasons Without You* by Subhash Jaireth (an Indian settled in Australia) are a few examples of the impact of *Barahmasa* literature. Jaireth narrativises, in a contemporary voice, the life of the Buddha who, as young prince Siddhartha, renounced the world, leaving his young wife, Yashodhara, and their son, Rahul. But woven into the Buddha story, and running parallel to it, is the voice of young Yashodhara, the abandoned wife, whose thoughts constantly turn towards him, even as the seasons keep changing. Some of it is quite moving. In "Winter 5", for instance, Yashodhara says: "*Do you remember the kachnar/ that grew near the pond in our garden?/ The one that used to shed/ its leaves in winter but always hesitated to blossom? Suddenly this winter/ as if touched by the gracious hand of the blessed one/ it has finally/ resolved to splash all its colours./ What a wondrous opulence of mauve,/magenta and pink! (But) I scold the tree, why this season,/ when it seems the world inside me has turned so blank and cold?*"<sup>13</sup>

## 5. BARAHMASA: CHIEF CHARACTERISTICS

At the centre in all narratives of *Barahmasa*, are the following three characteristics: the woman's voice; the pain of separation from the beloved (*viraha*); and the catalogue of nature symbolism and images pertaining to the seasons. Most of the *barahmasas* were in the *feminine voice* of a woman pining for her absent beloved. It is true to say, however, that the 'feminine voice' was not a stable signified. It could be pathetic, when the voice returned relentlessly to the heroine's mental and bodily suffering; could be sensuous, when the lament drew attention to the woman's 'wasted youth' or when it became an excuse to evoke the pleasures that the seasonal festivals offered to the women whose husbands were not away; and finally, it could

<sup>13</sup> B N Goswamy, "Seasons of Longing" Sunday, December 7, 2003 Spectrum, *The Tribune*. Accessed on 11 01 2011 <http://www.tribuneindia.com/2003/20031207/spectrum/art.htm>.

evoke a homely world of seasonal tasks, consultations about omens with religious specialists and the nice things to be had and enjoyed at different times of the year.

The theme of the 'six seasons' (*sadrta*) or four months (*Caumasa*) was a great favourite and indeed a set-piece for many aspiring poets. Interestingly, poetry about the seasons is also found in Sanskrit medical texts. Underlying both poetry and medicine, was a common perception of the qualities of each season and the activities, food, dress and behaviour appropriate to each of them. Thus medical texts grouped the six seasons in two sets of three. The first set - *sisir*, *vasanta* and *grisma* (late winter, spring and summer) was qualitatively hot and dry. *Varsd*, *sarad* and *hemanta* (the rainy season, autumn and early winter), the second set, was characterised as cold and wet. The 'hot and dry' months were deemed debilitating for the human body, while the 'cold and wet' months were said to be invigorating. The 'description of the seasons' (*rituvarnana*) was rich in metaphoric connections and expressed time as a cycle, 'constantly on the fulcrum between memory and expectation'. However much they shared in terms of the stock of images and of the underlying moods and imagery connected to the seasons, *barahmasas* seem to have been in origin a purely popular genre, distinct from classical court poetry. That 'six seasons' and 'twelve months' were perceived as separate set pieces expressing different moods is well brought out by the sixteenth-century Sufi poet Malik Muhammad Jayasi in his *Padmavat*.<sup>14</sup>

As a necessary excursus, it would be pertinent to bring forth Orsini's argument that *Barahmasas* were perhaps the first substantial genre in the boom in commercial publishing in north India of the 1860s.<sup>15</sup> Unlike qissas, they first appeared in Devanagari and then gradually in Urdu as well. Broadly speaking, two kinds of *barahmasas* dominated the market. First, short religious songs. Second, especially after 1870, longer songs like *Barahmasa Khairasah* which combined a folk-song template with popular Urdu verse. This is an example from the *Barahmasa Benimadho or Surdas*; in an interplay of Braj Bhasha and Urdu, the core theme of yearning and longing is once again struck:

*Katik kalol kare sab sakhiya, Radha bicar kar man me ri,*

*Madho piya ko an milao, nahi pran bace chan me ri.*

Refrain:

<sup>14</sup> Jayasi is said to have lived between 1477 to 1542 in Uttar Pradesh, India. His fame rests on *Padmavat* (1540) a long poem about the beautiful queen Rani Padmini of Chittor, which led the historic siege of Chittor by Alauddin Khilji in AD 1303.

<sup>15</sup> For a fuller account, see the chapter on *barahmasas* in *Print and Pleasure: Popular Literature and Entertaining Fictions in Colonial North India*, by Orsini, Permanent Black 2009.

*Hamkau char cale Benimadho, Radha sog kare man me ri,  
Agahan gend bandy savare, jay khele tat Jamna ke ri,  
Khelat gend giri jamna me, kali nag nathnu chan me ri.*

Katik- all girlfriends make merry, but Radha is deep in thought:

Make me meet with Madho my love, or my life will leave me any moment now.

Refrain:

Benimadho has left me and gone, Radha grieves in her heart. Agahan, the Dark One has made a ball and plays on the banks of the Jamuna.

As he plays, the ball falls into the river, where the black snake is.

The popularity in print of this kind of *barahmasas* shows that a genre which had known until then a multiple and layered history in women's songs, courtly poetic exercises, experiments by Perso-Urdu literati and urban popular poets, acquired a new function of entertainment for the Hindi-Urdu reading public, to which it offered an attractive image of a woman who was flatteringly dependant on men for her fulfillment. Whether it was the *birahini* drawing attention to her youthful body or the beautiful *suhagins* who enjoy sexual pleasures in harmony with the seasons, the message was a simple one: a happy woman is not just a married woman (for the *birahini* is also married after all) but, also a wanted one! After months of complaints and lamentations addressed to the husband who deserted her and sent no news of himself nor asked any other, the heroine is usually overjoyed to welcome him again at the end of the poem, her position as a *suhagin* and her sensual appearance immediately reinstated - with no admonitory lesson for the male audience.

In the devotional tradition, this relationship has played out on recast registers enabling 'new' texts to be written, transcending to other realms!

## 6. DEVOTIONAL BARAHMASAS

Devotional *barahmasas* were poems of only a few, rather elementary verses, often attributed to the great saint poets of the Northern Hindu tradition, Surdas or Tulsidas, and appear to be of a kind of compositions meant for group singing: *Krsna hi Krsna ratal narnaari* (men and women repeat the name of Krishna) is the refrain of one of them, while another has on the cover a woodblock image that depicts a Sant (Surdas) sitting in front of a group of

women, all singing a bhajan, with a temple in the background.<sup>16</sup> The template of twelve months was used to evoke in the two, short lines of each stanza incidents or *lilas* connected to the deity, while the refrain brought the mood back to devotional fervour or *viraha*. Thus in the *barahmasa* attributed to Surdas, also published as *Barahmasa Benimadho* each stanza contained one single detail from Krishna's exploits, while the name of the month at the beginning sets the beat along the calendrical cycle; *Ramachandra ka barahmasa* evokes moments of Ram's quest, and *Dropadiji* quickly retells the events related to the game of chess in the *Mahabharata*.

### 7. HAWLEY'S VIYOGINIS

Hawley in his essay<sup>17</sup> takes the tradition of the pining women, the *virahinis/viyoginis* to another level. Hawley translates *viraha* as 'yearning' and '[scorched with] separation', a more common term than *viyoga* and slightly different in its connotation. Whereas *viyoga* indicates the fact of separation, *viraha* connotes its experience. The two are closely related, however: the women who experience this separation can be called *viyogini* and *virahini* almost interchangeably.

Though Hawley opens the argument by referring to the tension that exists in all religions primarily, 'between those who hold that true worship is a single, simple thing and those who feel that in a world as complicated as the one in which humanity finds itself, religion too must necessarily be something complex and manifold' (1981: 1), he quickly establishes a link with the binaries that relate to men and women. He says, 'Not far away is the debate about whether faith is something childlike or mature, something easy or difficult. And.... a certain tendency to identify one side of all these oppositions with the nature of women and the other with the nature of men.'(2)

Attempting to alter the rarefaction of Hinduism as a complex and difficult religion, Hawley uses the conflict between 'Yoga' and 'Viyoga' to prove that 'the religion of simplicity emerges as nothing less than the true form of yoga.'(2) As an example he uses the pericope of Krishna Bhakti of the milkmaids or cowherd women (Gopis) alongside the trope of separation, quite similar to the ones found in all *Barahmasas*: poetic/literary and devotional. Using Surdas's works, *Sur Sagar* and *Brahmargit*, Hawley writes

Sur brings to focus in his *bhramargit* poems a tradition of women's songs that

<sup>16</sup> The first is *Dropadiji ki barahmasi*; printed (in Delhi) at Matba Dilkusha, 16mo, 16pp. (IOL 14158.C.6); another edition was printed in Delhi at the Matba Jvalaprakash in the 1870s (14158.C.3); the second is *Barahmasa* Surdas, printed in Urdu characters in Agra by the Matba Rada (14109.a.10).

<sup>17</sup> J S Hawley, "Yoga and Viyoga: Simple Religion in Hinduism" *The Harvard Theological Review*, Vol. 74, No. 1 (Jan., 1981), pp. 1-20.

stretches back beyond the reach of memory, though it has only rarely been committed to writing. Folk culture all across North India is rich in songs of women's lamentations, and one of the most prominent genres of all, the *barahmasa*, records the sufferings and longings of women whose husbands are away.<sup>18</sup>

In the poems of the *Sur Sagar* and in other similar poems, as in some of the women's songs themselves, these longings are for the absent husband Krishna. (16-17) Though it appears that for the purposes of my discussion in this paper, restricting my attention to only that section where Hawley refers to *Barahmasa* would be more than appropriate, it will be difficult to elide Hawley's definition of *Viyoga*:

*Viyoga* in the *Sur Sagar*<sup>19</sup> signifies just the opposite of *Yoga*. The word literally means an unyoking, a disjunction; in Sur's language it refers specifically to the separation of the gopis from Krishna. Their physical separation from him, however, does nothing to diminish the totality of their attachment to him; it makes them ache with estrangement all the more.

Furthermore it throws into bold relief the stark simplicity of their position: their love for him is so strong and fundamental that no outward change of circumstance, not even his own departure, can alter it. The gopis' devotion to Krishna, in his absence as in his presence, is the total orientation of their life...it is a religion characterized by utter simplicity; and as devotion to the Lord in separation from him, as *viyoga*, it admirably summarizes the various facets...associated with simple religion-as fully as *yoga* epitomizes their opposite.

(6)

Thus, Hawley, neatly frames the tradition of *Viyoga* opposite *Yoga*; between simplicity and complexity; between women and men! Hawley makes it clear that, as *viyoginis* or *virahinis*, women separated from Krishna, are the true yogis of this world, and stand as paradigms of the spiritual life. The states of consciousness to which the best-trained yogis aspire through whole lifetimes of renunciation come with maddening ease to these untutored...female rustics." (8) The attempt to make the gopis representative icons of

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<sup>18</sup> Hawley lists down more *barahmasa* songs from Charlotte Vaudeville, *Barahmasa* (Pondichery: Institut Francaisd Indologie, 1965); Dusan Zbavitel, "The Development of the Baromasi in the Bengali Literature," *ArOr* 29 (1961) 582-619; and Susan Snow Wadley, "The Rains of Estrangement: Understanding the Hindu Yearly Cycle," unpublished paper delivered to the American Anthropological Association, 1978. He further informs Vaudeville's records and translations of a selection of *barahmasas* of various types: Bhojpuri *barahmasa* found in Krsnadev Upadhyay, ed., *Bhojpuri Lok-Git* (Allahabad: Hindi Sahitya Sammelan, 1954 and 1966) 1. 407-28 and 2. 165-93.

<sup>19</sup> See Hawley, "The Early *Sur Sagar* and the Growth of the Sur Tradition," *JAOS* 99 (1979) 64-72.

religiosity, was in many ways an effort to not just pay a tribute to simple religion in general but *distinctively applaud the womanly tradition of religiosity*.

## 8. RELIGIOUS BARAHMASA

One typical change in function took place at the hand of religious poets, who either interpreted the heroine's *viraha* in spiritual and/or devotional terms - as the pain of the soul's separation from God - or else grafted the template onto a story of spiritual conversion or tagged a didactic message onto every month.<sup>20</sup> The earliest known literary example, a short poem in late *Apabhramsha* by the Jain monk Dharam Suri, combined prose and verse on the months of the year with verses of self-praise and fragments of songs on *viraha*.<sup>21</sup> Charlotte Vaudeville has documented the significant production in old Gujarati of Jain *barahmasas* on the subject of Neminath's desertion of his wife Rajmati on their wedding day to follow a life of renunciation.<sup>22</sup> *Barahmasas* were taken up for a religious purpose also by Nath Yogis, Sufis, Sants and Bhaktas. Among the Sufi poets, the *Barahmasa* of Ali Haider and Bulhe Shah are worth mentioning.

Krishna, the absent god-lover par excellence, fitted into the role very well, as the following *barahmasa* attributed to Mirabai shows,

*Piya mohim darsan dijai ho.*  
*Ber ber maim terahum ahe kripa Kijai ho.* [Refrain]  
*Jeth mahine jal vind panchi dukh hoi ho.*  
*Mor asarham kuralahe ghan chatrag soi ho.*

My love, give me the vision of Yourself:  
 Again and again I call You, have pity on me, ho! [Refrain]  
 In the month of *Jeth*, for want of water the bird is in pain, ho.  
 In *Asarh* the peacock throws its cry, the *chataka* bird calls the cloud, ho.<sup>23</sup>

<sup>20</sup> The *barahmasa* attributed to Guru Arjan in the Guru Granth is purely didactic, whereas the one attributed to Guru Nanak is of a devotional nature. Several poetic *Barahmasas* from Rajasthan and Punjab, including Nagmati's laments have tinges of a spiritual experience (e.g. the 'unfathomable path').

<sup>21</sup> Found in a late twelfth-century manuscript at Patan; see Vaudeville 1986:18.

<sup>22</sup> According to Vaudeville, the *viraha barahmasa* of Rajimati pining for Nemi for twelve months before herself embracing the ascetic life shows that Jain munis were quick to use *viraha-gitas* of the *chaumasa* or *barahmasa* type to disseminate their ascetic teaching, and the change from *viraha* to *vairagya*, i.e. from a lament for solitude to an attitude of contempt for the world and its fleeting joys, occurs as a natural development'. Vaudeville 1986: 27.

<sup>23</sup> See Vaudeville 1986: 53, 56. In several of the printed, manuscript and oral *barahmasas* of the nineteenth century attributed to Surdas or Tulsidas, the template was used to recollect the adventures of Krishna or Rama or the marriage between Krishna and Rukmini. The names Krishna, Murari, Shyam and also Raghubir also crop up regularly in secular *barahmasas*, evidence of the blurred boundary between secular and religious love that poetry in the public domain also display, and of the many and layered resonances that had gathered around the Krishna-

Other Sant poets have used Spiritual *Viraha* as a means of union with God. The recurrent motif is that the Spiritual *Virahini* meets her Divine husband in her own house as she discovers His presence in her own heart. As you see, not all spiritual *Barahmasas* deconstruct the gendered roles.<sup>24</sup> The soul is the feminine *virhini* and the Divine almighty is the masculine lord.

*Barahmasa* is also the most important nature symbolism used by the Sants. The stages and states of the Spirit entity in its passage to its Original Abode are described, likening them to the conditions, a human being undergoes, in the different seasons. The imagery and motif are most aptly and completely described in the *Barahmasa* of the *Sant Mat* and Radhasoami Faith. These *Barahmasas* are allegorical and didactic in nature.

### 9. BARAHMASA IN RADHASOAMI TRADITION

As stated earlier, *Barahmasas* have been written by many saints of the modern world. An exemplary one has been by the founder of Radhasoami Faith at Dayalbagh, Agra, Soamiji Maharaj, (Shiv Dayal Singh Sahab). His canonical scripture, *Sar Bachan Nazm* (Poetry) in its chapter *Brahamasa*<sup>25</sup> unveils an unusual spiritual narrative which traces the lifespan of a Spirit entity (*Jiva* or *Surat*) in this destructible and transient world (*Loka* or *pind desh*) and then its upward journey to higher regions. Towards the end, the seeker and the sought are shorn of their gender identity.

Every month broadly represents and depicts the state and condition of the *Surat* (soul), much like the other *barahmasas*. Every seasonal description has an explanation given in some preliminary lines explicating what shall follow in that particular month's description. All the descriptions are resplendent with the ethos of longing and pain of separation. Interestingly, feminine and masculine constructs no longer exist. According to Professor P.S. Satsangi, in the

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gopi motif. See e.g. *Barahmasa Benimadho, Ramachandraji ki barahmasi* by Ganeshdas (Fatehgarh 1868); on the marriage between Krishna and Rukmini, *Barahmasa*, Shambha Ray (Delhi 1875).

<sup>24</sup> The oldest *Barahmaha* available was written by Guru Nanak Dev in Raag Tukhari which is both: spiritually mystical as well as a marvelous piece of poetry. The imagery is borrowed from nature and folk-life, which makes the philosophical concepts intelligible. A married woman awaits her husband who has gone abroad. Her mood changes with the change of the season. The romantic rainy season has started, and the separated beloved feels loneliness and pangs of separation. The panoramic vision of nature elevates the *Barahmasa* to new heights in diction, imagery and thought content. Another *Barahmasa* in *Adi Granth* is in Majh Rag written by Guru Arjan Dev. These *Barahmasa* are simple outbursts of innermost and intensive feelings and are very popular in rural areas. Sant Arjan Dev's *Barahmasa* alludes to the pain of separation from the Lord thus: "O Ram! Be merciful: Unite with Thee those who are separated from Thee by their evil words or doings".

<sup>25</sup> pp 788 to 838, verse 38.

hymn for the twelfth month of "Jeth" in terms of 70 stanzas<sup>26</sup> a subtle deconstruction of gender happens from stanzas 3 through 10 which translates as follows:

Neither was there the Creator, nor Creature, nor Creation,  
 Neither was there Doer, nor Cause, nor Act, nor Impediment (3)  
 Neither Seer, nor Seen, nor anything was visible;  
 Neither was there Unrevealed, nor Revealed,  
 Neither Position (Abode), nor Matter (4)  
 Neither was there Qualifier, nor Quality, neither Beginning, nor end;  
 Neither was there Hidden, nor Exposed, neither Interior, nor Exterior.(5)  
 Neither was there Ram, nor Rahim (Merciful),  
 neither Karim (Gracious) nor Keshav (Krishna);  
 Nothing was there, Nothing, Nothing was there then.(6)  
 Neither was there Smriti, nor Shastra, neither Gita, nor Bhagwat;  
 Neither was there Katha (Epic), nor Puran, neither Singer, nor Song.(7)  
 Neither was there Servant, nor Master, neither Devotee, nor Deity;  
 Neither was there Satnam (Refulgent Sat Chit Anand), nor the Nameless One.(8)  
 How often must I repeat, Nothing was there;  
 The Creation of the Four Worlds had not yet begun. (9)  
 What was there, I state now:

I (Supreme Being or Puran Purush) was there in "Unmun" (Absolute self-absorption)  
 "Sun-Bisamadhi" (State of Shunya Samadhi" i.e. Zero State of Deep Meditation). (10)

Such a *Barahmasa*<sup>27</sup> reveals the secret of the *True Being* and explains the path and the method of proceeding to realize the same. The True Being is one *Who always remains the same* and in *Whom there is no change or alteration* at any time. There are many grades of "true being" in various religions. People call one who stays longer than another as "true being" and also believe so. However, the real *True Being* is *One Who remains the same* at all times in comparison to the entire creation and *Who continued to exist* even when there was no creation and *Who would continue to exist* as before even when there is no creation. It is at this juncture that there is complete dissolution of Gender.

Coming back to Hawley's thesis in *Yoga-Viyoga*, this is how complexities and difficulties in religion are overcome by simple understandings of religion. In Hawley's thesis, woman stood at the centre as the epitome of simplicity. In the present description, the gender role of the subject-position of the *Virahini*/the *Jiva*/ the *Surat* and the sought, husband/beloved

<sup>26</sup> Prof. P S Satsangi's discourse in SPIRCON, (12-13 Nov. 2010) an international conference on "Spiritual Consciousness Studies and Radhasoami Faith" held at Dayalbagh Educational Institute, Dayalbagh, Agra, published as Vision Paper, "Cosmology from the Twin Vantage Points of Radhasoami Faith and Systems Science" in *Spiritual Consciousness* (ed. Sriramamurti, Prashant & Mohan) New Delhi: New Age Books, 2013: 21-41.

<sup>27</sup> H. Maharaj, *Prem Patra*, Part-III, Discourse 22, Radhasoami Satsang Sabha, Dayalbagh, Agra, 1959, pp.315-321.

or the ultimate divine has almost turned neutral. The *Jiva/Surat* can be pining for one *Who* is just ‘The True Being’; one *Who* remains the same and in *Whom* there is no change or alteration at any time; one *Who continued to exist* even when there was no creation and *Who would continue to exist as before* even when there is no creation. *Barahmasas* indeed stand at the centre of all such narratives. The Krishna of the pining milkmaid women (*gopis*) is ‘the True Being’ bereft of any gender specificity. And the *gopis* are just ‘a spirit entity’ shorn of any femininity! All gender roles crumble at such a point. Somewhere, such a *Barahmasa* not just theorises but also neutralises the gender ‘agency’ of both women and men.

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## **Inviting the Lash of the Bullwhip: "Make in India" Risks Unintended Consequences**

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### ABSTRACT

Few realize that India today is among the most export-dependent of Asia's big economies. Yet that export-dependence – along with the "Make in India" program – may create unprecedented cyclical vulnerability.

While India's export prowess has helped to shrivel its trade deficit, it is not only how much – but what – India exports, that creates this vulnerability. The reason is the bullwhip effect, which is liable to be amplified in the "yo-yo years" due to declining long-term trend growth in the world's major economies.' Making India a global manufacturing hub will amplify the bullwhip effect, and thus the economy's susceptibility to upswings and downswings in the world economy.

India need not become less export-oriented or abandon the "Make in India" initiative. But if it is to progress along this path, policymakers should become much more attuned to Indian and international economic cycles in order to navigate the economy's potentially amplified cyclical swings.

Keywords: Economic Cycles, Bullwhip Effect, Supply Chains, Exports, Make in India

### 1. INTRODUCTION

India accounted for nearly a third of the world's output – more than the Roman Empire or China – two thousand years ago, and even as late as 1700, produced a quarter of the world's GDP – more than China and almost as much as all of Europe. Yet, by the end of the 1970s, India's share of world GDP had plummeted to a historical low of just 3% (Maddison, 2007). From that nadir, India has seen its GDP share climb back to some 8% (The Conference Board, 2015) – the highest in over a century – while also becoming an export-dependent economy.

Witnessing the "Chinese miracle" next door, many Indians aspire to follow their own national agenda for economic renewal, spearheaded by exports and manufacturing. However,

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few appreciate the implications of either such export-dependence, or Prime Minister Narendra Modi's "Make in India" program, for the cyclical stability of the Indian economy. Neither is an affliction in itself; rather, both may be potential boons. But, as many a folk tale cautions, we should be careful what we wish for.

## 2. INDIA'S EXPORT DRIVERS

One key driver of Indian growth in recent decades has been the rise in its exports.

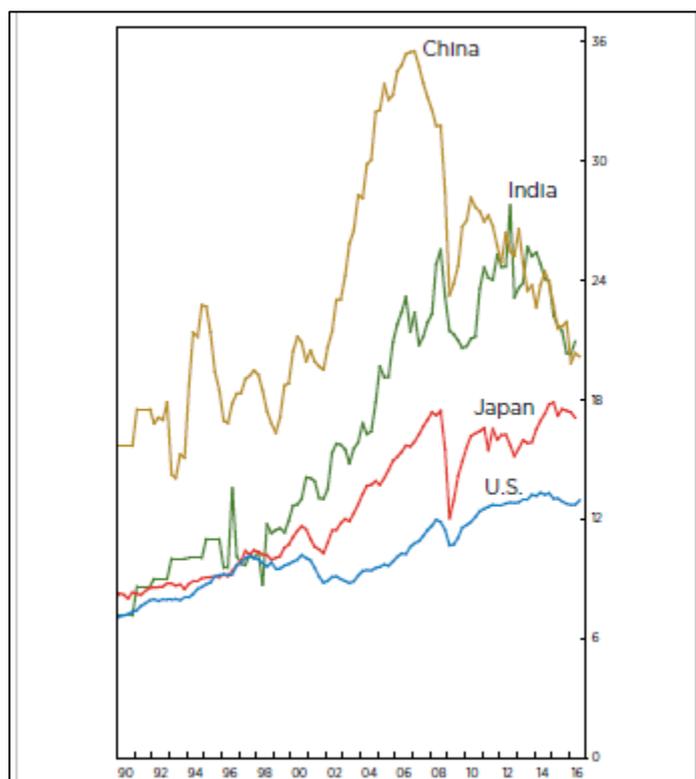


Figure 1: Export Share of GDP (%)

Source: Bureau of Economic Analysis, Japanese Cabinet Office, OECD: Haver Analytics; World Bank; ECRI

In fact, its export share of GDP practically quadrupled from just over 7% in 1990 to almost 28% at its high point in 2012 before easing to 21% by mid-2016 (Figure 1, green line). While the export share of GDP soared even more in China to a peak of 35½% in early 2007, it has since fallen precipitously, to 20% (gold line), making it slightly less export-dependent than India. The export shares of GDP are lower still for Japan, at 17% (red line), and for the U.S., at 13% (blue line). Thus, for the last few years, India has been among the most export-dependent of the big Asian economies.

Modern India's export prowess has been partly responsible for its shriveling trade deficit (Figure 2, red area). While imports have dropped off sharply in recent years, thanks in

part to the declines in crude oil prices and gold imports, the latest uptick in exports – especially the exports of services, which have jumped by almost 27% in the last three quarters (green area) – has also helped. Even so, goods exports (blue area) – which have always constituted the majority of India’s exports – still make up 60% of total exports.

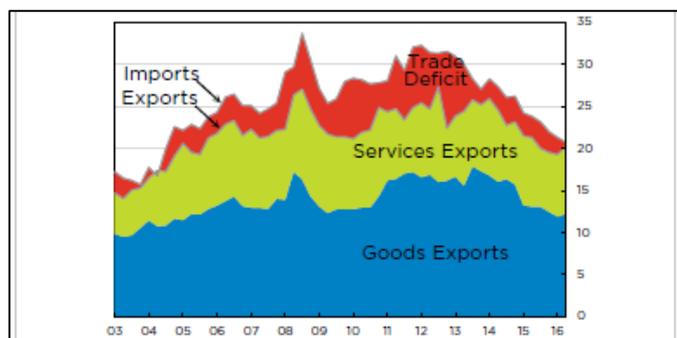


Figure 2: India’s Exports and Imports (% of GDP)  
Source: Central Statistical Office/ Reserve Bank of India; ECRI

As we shall explain, this dominance of goods exports – currently equivalent to one-eighth of India’s GDP, down from nearly one-fifth three years ago – has important consequences for the Indian economy’s sensitivity to global growth. Indeed, while global growth has experienced merely a *cyclical slowdown* over the past couple of years, as anticipated by ECRI’s international leading indexes (Economic Cycle Research Institute, 2014a), India’s goods exports have actually *fallen* by some 13% from its peak in early 2014. To understand why, it is important to appreciate the broader international context within which this pullback has occurred.

### 3. EXPORT ENGINES CUT OUT

A key objective of repeated rounds of quantitative easing by international central banks in recent years has been competitive devaluation to boost exports. This helped advanced economies’ export volumes to improve a bit a couple of years ago, but only at the expense of a nosedive in export price growth. Since then, advanced economies’ year-over-year (yoy) export volume growth has petered out, mostly hugging the zero line since late 2015 despite much lower prices. In fact, yoy export price growth for advanced economies – which are hardly dominated by energy or commodities – fell deep into negative territory last year, exhibiting the worst export price deflation since the Global Financial Crisis (GFC), before turning less negative (CPB Netherlands Bureau for Economic Policy Analysis, 2016).

For emerging economies, the picture is at least as dire, with export volume growth hovering near zero since early 2015, while yoy export price growth continues to display deflation. In fact, export volumes for both advanced and emerging economies have been essentially flat for the past couple of years, even with emerging economies' export prices plummeting by more than a quarter and advanced economies' export price levels plunging by a fifth by the beginning of 2016. Plainly, even rampant export price deflation for advanced and emerging economies alike has been unable to boost export volumes.

As a result, following years of unprecedented stimulus by rich countries' central banks, yoy growth in the volume of world exports has been hovering near zero for the past year or so, far below the pre-GFC norm (Figure 3, top line). Meanwhile, world export prices – which plunged between the summer of 2014 and early 2016 before stabilizing somewhat – are still in deflationary territory in yoy terms, after experiencing in 2015 a degree of deflation only seen during the GFC (bottom line).

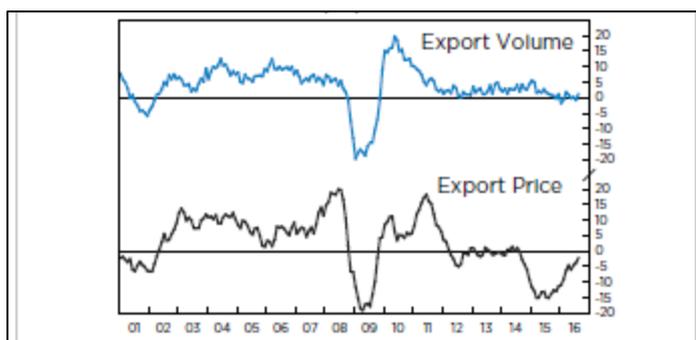


Figure 3: World Export Volume and Price, Growth Rates (%)  
Sources: CPB Netherlands Bureau for Economic Policy Analysis; ECRI

To be clear, there are two separate processes unfolding here that should be disentangled. First, over the last five years, world export volume growth has averaged only 1.7% a year, well below the 7.7% average for the five-year period through the beginning of 2008, i.e., preceding the GFC. Meanwhile, world export price growth has averaged -4.6% a year over the last five years, radically different from the 8.5% average for the five years preceding the GFC. In other words, following the early-21<sup>st</sup> century “globalization tsunami” (Economic Cycle Research Institute, 2004), with the tsunami now having receded, we are now caught in its backwash – a period of de-globalization that is a far cry indeed from the heydays of rampant globalization. Export-driven growth is rather difficult in such times.

Overlaid on this massive *structural* shift, however, has been a more recent *cyclical* slowdown. Specifically, world export volume growth peaked at the beginning of 2015, and has

since stayed in a cyclical downswing. World export price growth peaked a bit earlier, in the spring of 2014, and then plunged deep into negative territory before staging a partial revival this year. The decline in Indian goods exports since its 2014 high reflects primarily this *cyclical* swoon, driven primarily by the bullwhip effect, which we will explain in a moment, and it is liable to be amplified in these “yo-yo years” – the result of the decline in long-term trend growth for the world’s major economies.

#### 4. THE YO-YO YEARS

As students of the business cycle, we have a distinctive cyclical perspective at the Economic Cycle Research Institute. In fact, our focus on cycles lets us discern what is cyclical and, by elimination, what is not. Thus, in the summer of 2008 prior to the Lehman Brothers collapse, we were able to first identify the long-term pattern of weaker and weaker growth during successive U.S. expansions, stretching back to the 1970s (Economic Cycle Research Institute, 2008). Our finding was reported in *The New York Times* (Norris, 2008) but otherwise went largely unnoticed.

As we continued investigating this troubling long-term trajectory, looking at other developed economies in the process, we wrote about the implications of this “ominous pattern ... of falling growth in GDP and jobs during successive expansions” (Banerji and Achuthan, 2012). More than a year later, that reality began to gain broader traction when a former U.S. Treasury Secretary promoted the notion of “secular stagnation” (Summers, 2013).

Economic growth tends to converge toward long-term trend growth, which, as mentioned, has been declining for decades. To assess whether this pattern is likely to persist, it is helpful to ask what potential GDP growth is likely to be in the years ahead.

So, let us review some simple math. In essence, growth in labor productivity (output per hour) and potential labor-force growth add up to potential GDP growth. Therefore, a closer look at these two measures is in order.

The U.S. Congressional Budget Office (CBO) pegs potential labor force growth at 0.4 percent a year for the 2016–2020 timeframe. This is an uncontroversial estimate, given that the demographics are pretty much set in stone. While this may seem quite weak, it is better than those for the major Eurozone economies or Japan.

Separately, U.S. productivity growth, which has been falling for years (Economic Cycle Research Institute, 2014b) has averaged about 0.7 percent a year for the last five years and 0.3% for the last two years, and has fallen to just under zero percent for the past one year. As

to where productivity growth is headed from here, some would like to believe that it will approach its average of 2% per year from 1970 to the GFC eve, or even its average between World War II and the GFC eve of about 2¼% per year. But, as Federal Reserve Vice Chairman Stanley Fischer (2015) has noted, “productivity is extremely difficult to predict.” Accordingly, it is prudent to avoid heroic assumptions. Indeed, even if productivity growth does exhibit reversion to the mean, it is not clear why the relevant mean should be the one for the post-World War II period prior to the GFC, or the 1970-2008 time span, considering that the next few years are unlikely to resemble those earlier periods.

Rather, the default assumption ought to be the simplest one, namely, that productivity growth over the next five years will average what it did for the last few years. In that case – meaning that if things stay around where they are – simple math suggests that potential real GDP growth will amount to about zero to 0.7 percent productivity growth, plus 0.4 percent potential labor force growth, that is, around 1% per year through the beginning of the 2020s.

To a large extent, demographics is destiny, and indeed, a sustainable boost to productivity growth is realistically possible only in the long run. Until one or both change, U.S. GDP growth will most likely converge to somewhere around 1% a year.

Analogous calculations suggest that for the next five years, potential GDP growth is likely to converge to about 0.8% for the U.K. and France, and to as low as 0.4% in Germany and 0.3% in Italy due to their dismal demographics. In Japan, where demographics are even worse, potential GDP growth is likely to stay at zero, around which it has hovered for the last eight years. The problem is that most other major advanced economies are also “becoming Japan.”

Twice a year, the International Monetary Fund (IMF) makes five-year-ahead forecasts of real GDP growth, which have seen significant declines in recent years for most major economies. A case in point is the U.S., whose GDP growth forecast has just been slashed to 1.6%, less than half the high of 3.4% from five years ago. Meanwhile, the GDP growth forecast for China has been cut almost in half to only 5.8% from 10.0% eight years ago. While markdowns to the Eurozone GDP growth forecast have been more gradual, it has been reduced to just under 1.5% – only five-eighths of the 2.4% estimated in the spring of 2008. Of course, it is Japan that has led this particular race to the bottom, with its five-year-ahead GDP growth forecast being reduced to a scant 0.6%, less than a quarter of the 2.5% estimated in the spring of 2009, yet only one percentage point below the latest forecast for the U.S.

What is extraordinary is the extent of the reductions in the longer-term GDP growth forecasts for the world’s largest economies – the U.S., China, Japan and Germany – whose

latest forecasts are respectively 48%, 58%, 24% and 54% of what they were estimated to be during the GFC. For China in particular, the degree to which growth expectations have been scaled back is breathtaking. And for the world's three largest developed economies, it is remarkable that their longer-term GDP growth rates are now expected to be between about 0.6% and 1.6% per year. To be clear, the growth potential of these economies has not plummeted only recently. Rather, while ECRI first identified the long-term decline in trend growth some eight years ago, it is only in the last few years that this structural shift has been more widely recognized by the consensus. Yet, our "simple math" suggests that they still have further to go in downgrading their forecasts. And even without such further downgrades, this is a very different global growth environment for countries banking on export-driven growth.

Now, please consider the business cycle in the abstract. It is the nature of economic cycles that slowdowns in economic growth alternate with periods of reacceleration, with economic growth cycling up and down around the economy's long-term trend growth rate, which is synonymous with potential GDP growth for the purpose of this discussion.

Suppose this trend growth rate is relatively high, i.e., well above zero. In that case, even when economic growth cycles down, it is unlikely to dip below zero very often, resulting in infrequent periods of negative growth, meaning that recessions become relatively rare.

A case in point is India, where real GDP growth has averaged 7% a year since the end of 1996, when its last recession ended, according to the authoritative international business cycle chronologies and recession dates established by ECRI (2016) for 20 economies. Because ECRI decides these recession start and end dates on the basis of the approach used to determine the official U.S. recession dates, they have long been used in research as standard benchmarks by academics and central bankers alike (e.g., Dueker and Wesche, 2001; Sensier *et al.*, 2004; Ferguson, 2005; Fernandez and Nikolsko-Rzhevskyy, 2011).

In contrast, in Japan, where GDP growth has averaged zero percent a year since the beginning of 2008, there have been four recessions just since 2008. This is because GDP growth has dipped below zero almost every time Japan has experienced a slowdown over this period. As potential GDP growth converges to the 0% to 1% range in most advanced economies, as discussed, this will increasingly be the state of affairs – virtually dictating more frequent recessions – unless there is a significant reduction in cyclical volatility for some reason. This is what we call "the yo-yo years" (Banerji and Achuthan, 2012).

## 5. THE LASH OF THE BULLWHIP

The bullwhip effect refers to a phenomenon in which relatively small fluctuations in the growth of consumer demand are amplified up the supply chain into big swings in demand as one moves away from the end consumer. In effect, smaller shifts in end-consumer demand growth translate into larger fluctuations in intermediate goods demand, and even bigger ones in input material demand, and especially in raw material prices (Banerji and Achuthan, 2012).

A pioneering study of the shoe-leather-hide sequence by Ruth Mack (1956) showed how shifts in demand cascade through supply chains to produce larger and larger cyclical swings (Figure 4). During periods of growth, shoe manufacturers anticipate rising demand, but if demand growth slows, i.e., there is a *slower increase* in demand for shoes, shoe manufacturers will be stuck with excess shoe and leather inventory.

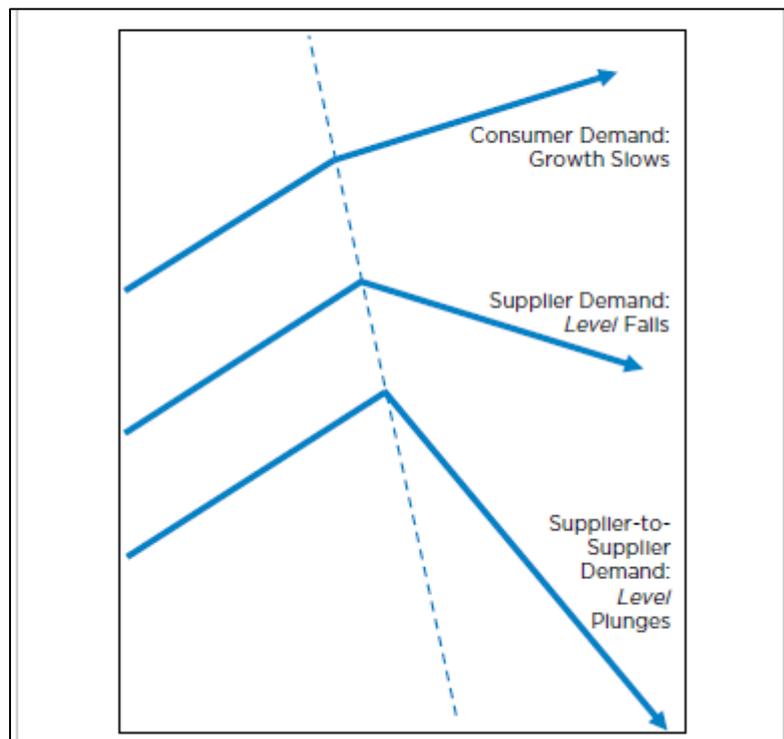


Figure 4: Shoe-Leather Hide Sequence: The Bullwhip Effect  
Source: ECRI

Thus, new orders for leather have to be *reduced* significantly. In turn, the leather manufacturer, stuck with an even larger excess inventory, *slashes* orders for hides. Hides producers end up experiencing an even more precipitous drop in demand than the leather manufacturer does.

This amplification of cycles up the supply chain has a direct impact on prices. After all, fewer cattle will not be slaughtered because the demand for hides has plummeted, as hides are

a by-product of meat production. Therefore, prices for hides start to plunge. Just as the production of hides is insensitive to demand, so is the supply of crude oil, silicon chips, steel, and copper relatively inelastic to demand. Therefore, their prices plunge when consumer demand growth eases, because their supply cannot be reduced quickly.

Mack's study showed how small shifts in demand growth at the consumer level are amplified up the supply chain. This magnification of demand fluctuations is called the bullwhip effect in analogy to the way a little flick of the wrist makes the end of the whip swing in a big arc.

The sequence of events described by Mack is not merely theoretical and, even though it was based on her observations from the early 20<sup>th</sup> century, its relevance has not diminished over the decades. Indeed, I remember reading a newspaper article a couple of months after the Lehman Brothers collapse about how well New York City cobblers were faring – unlike most other businesses – with consumers suddenly more inclined to get their footwear repaired instead of buying new shoes. Meanwhile, the price of hides plunged by more than half in the three months that followed the Lehman collapse in mid-September 2008.

A few months later, en route from Hong Kong to Kolkata, an Indian gentleman of Chinese ancestry who owned a shoe factory in Kolkata, sitting next to me, struck up a conversation. When he described the state of his shoe export business, I mentioned Mack's shoe-leather-hides sequence. He was so excited about the precise description of the real-life situation in his industry that he would not take his leave at the airport until I promised to join him for dinner later in the week to continue our conversation.

But this phenomenon does not ring true just at the anecdotal or micro level. A decade or so ago, a large delegation of Chinese economists paid an official visit to ECRI to learn about economic cycles. Presenting some basic insights, we complimented them on China's export-driven "miracle," as it had become "the world's factory floor," but cautioned them about the potential downside – the bullwhip effect. They listened politely, took notes, but did not ask further questions. However, following the GFC, which resulted in "20 to 45 million migrant workers [returning] to their home villages" after losing their jobs (Meng, 2012) in 2008 alone, the Chinese government was forced to launch a massive stimulus program, the likes of which the world had never seen – including the pouring of one and a half times as much concrete in a three-year period (2011-13) as the United States had poured in the entire 20<sup>th</sup> century (Swanson, 2015).

## 6. A WORD OF CAUTION

The point is that even a modest decline in consumer spending *growth* in developed countries like the U.S. and those in Europe can help trigger a significant drop in the *level* of demand from supplier economies and, in turn, a serious downturn in the level of demand for “suppliers to suppliers.” Becoming part of global supply chains as a supplier economy or as a commodity supplier to a supplier economy leaves an economy highly vulnerable to the bullwhip effect. Therefore, India’s greater export dependence, potentially accompanied by growing involvement in global supply networks, makes it increasingly difficult to decouple from global economic cycles. This is especially true for suppliers of early-stage goods that are embedded farther up the supply chain, away from the final consumer.

Please note that goods exports, involving inventory dynamics, lie at the heart of the bullwhip effect. In essence, the fact that goods exports now amount to an eighth of India’s GDP, and could rebound to a fifth of GDP or more, makes the economy highly vulnerable to the bullwhip effect, placing it at the mercy of cyclical fluctuations in end-user demand growth. But because these fluctuations flow largely from developed economies, which in an era of drastically reduced trend growth have entered “the yo-yo years” – an era of more frequent recessions, not just growth slowdowns, that involve larger fluctuations in consumer demand growth – this could add up to greater cyclical volatility for the Indian economy.

It is not only how much India exports, but what it exports – goods, including raw materials and parts – that creates this vulnerability. As a result, making India a global manufacturing hub is likely to boost the bullwhip effect, and thus the economy’s susceptibility to upswings and downswings in the world economy. This is a hard lesson already learned by China, which remains “the world’s factory floor,” but is deliberately moving away from that role.

Whether the plan is to make India a bigger supplier of goods to cater to foreign markets or the home market, there is an additional complication that could potentially enhance the bullwhip effect. As I have personally verified in experimental settings in simulated supply chains, the bullwhip effect is amplified by longer lags in receiving orders and shipments (Steckel *et al.*, 2004). Even assuming that lags in transmitting orders are much smaller than they used to be, given the growing prevalence of online communications, endemic shipment delays – especially when sending goods abroad – can greatly magnify the bullwhip effect. Because India has such poor transportation infrastructure, this is a serious potential concern that needs to be mitigated over time through appropriate infrastructure investment.

At the macroeconomic policy level, there is evidence that significant policy mistakes in the 21<sup>st</sup> century, traceable to cyclical misconceptions, have placed the major economies in difficult long-term predicaments with regard to global growth prospects (Banerji and Achuthan, 2016). Especially in this context, the greater coupling with global economic cycles, especially with advanced-economy business cycles, would be critical to manage. Appropriate monitoring tools are already available, in the form of ECRI's leading indexes for 21 economies, including all major advanced economies, as well as China, Russia, Brazil and South Africa. Another key economic indicator, our long leading index of global industrial growth, is also relevant, as are our Indian Leading Exports Index and Indian Long Leading Index, developed in the context of an indicator approach to Indian business and growth rate cycles (Dua and Banerji, 2001).

In sum, our words of caution do not imply that India should try to become less export-oriented or abandon the "Make in India" initiative. However, if it is to progress along this path, it would be critical for policymakers to be forewarned about cyclical swings in both domestic and foreign economies. In essence, it behooves them to become much more attuned to Indian and international economic cycles, to help navigate the ups and downs of the global economy.

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## **Desirable Traits of a Conscious Leader: An Empirical Survey**

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### ABSTRACT

The paper is aimed at studying the desirable qualities of conscious leaders by leveraging the responses of business leaders in India. The respondents are drawn from various sectors of the Indian economy. The study is empirical in nature and uses principal component factor analysis and content analysis to understand the qualities demonstrated by conscious leadership.

**Keywords:** Conscious Leadership, Emotional Intelligence, Transformational leadership, Ethics, Corporate Social Responsibility

### 1. INTRODUCTION

Leaders, in the current age face numerous challenges. While they are responsible for delivering on societal expectations, by and large, they face a keen scrutiny from shareholders and other stakeholders (Fry and Matherly, 2006), deal with compliance on regulations

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Acknowledgement: The authors are extremely grateful to Revered Prof. P. S. Satsangi for intuitive guidance provided during this research. This paper was presented at Towards a Science of Consciousness Conference in the East – West Forum, organized by the University of Arizona, USA in 2014.

(Burch and Danley, 1980), confront economic uncertainty, and, need to cope with civil society pressure for a more sustainable functioning (Brown, 2011). In a globally connected and digital world, news about corporate failure travels fast. Financial repercussions aside, impact on employees in terms of layoffs, and, natural disasters (French and Holden, 2012) can lead to grave consequences. In many economies, there seems to be ‘a crisis of confidence in those who are charged with leading wisely’ (Kellerman, 2012). It is with this background that theorists, educationists and practitioners debate upon qualities which are needed in future generations of business leaders.

Research into various aspects of organizational consciousness by theorists like Pruzan (2001), has helped apply those competencies to organizations, which are usually attributed to individuals e.g. ‘reflection’, ‘evaluation’, ‘learning’ and making measured ‘choices’. Taking decisions on the basis of one’s conscience which, in turn, guides moral values is another area which has been applied to studies on organizations. Meaningful examples are in the fields of business ethics, whereby, notions of organizational (shared) values, code of ethics and corporate social responsibility find due attention.

Researchers are beginning to investigate the specific ways in which consciousness impacts the functioning of human beings. It is expected that decisions taken by conscious leaders would be for the benefit of both the natural and corporate environment. Anderson and Anderson (2001), comment on qualities ascribed to a conscious change leader and this includes ‘being authentic, one’s natural self, being fully present and being skilled in self mastery, understanding the true dimensions of a problem faster, making better decisions, being able to develop one’s intuition and being able to sense right action and right timing’.

The researchers were inspired from the *term* ‘Conscious Leadership,’ ideated by John Renesch in 1997. According to Renesch (2003), conscious leaders ‘inspire and bring out the best in those around them, foster transformation, and manage beyond conventional profits’. Moreover, he enunciated that this leadership, is directed by an ‘inner moral compass’, and does not arise from ‘policy, procedures, techniques and systems’. The question of what influences the ‘inner moral compass’ is a separate one and is not the subject of research in this paper. This paper tries to refine the key constituents of conscious leadership.

It aims to specifically study the key attributes of conscious leadership by leveraging the views of profit and non – profit sectors in India.

To the best of our knowledge, no other study has been carried out which encapsulates the Indian view on Conscious Leadership.

The paper has been organized in the following manner. The present section introduces the focus area followed by literature review related to studies on consciousness and themes interfacing with management. The next section captures the research methodology. Further, the findings from the quantitative and qualitative studies are highlighted. In the last section, the findings are discussed and conclusions provided along with areas of future research.

## 2. LITERATURE REVIEW AND RESEARCH GAPS

In the present section, we begin by summarizing research in the area of consciousness studies. Secondly, the key themes interfacing consciousness and management literature are examined from the lens of business and leadership studies. The research gaps are identified henceforth.

### *2.1 Consciousness*

The term consciousness has many different connotations. Zeman (2001, p. 1265) referred to consciousness emerging initially, in the form of the three senses: “knowledge shared with another, knowledge shared with oneself and, simply knowledge”.

An inquiry into the types of consciousness, has thrown up multiple typologies. Four types of consciousness have been defined by Dr. A.K. Mukhopadhyay, All India Institute of Medical Sciences, New Delhi. These include the brain – stem consciousness which enables movements in the human body. The limbic – system which is responsible for human emotions leads to the second type of consciousness and directs endeavors for the pursuit of pleasure. The third and higher level of consciousness originates in the cerebral cortex leading to creative imagination. The fourth type is referred to as supra-cortical consciousness where man unites with the cosmic consciousness through meditation and other ‘mystical experiences’ (Swami Jitatmananda, 2013, p.180 in Sriramamurti, Prashant and Mohan, 2013).

Studies into various types of consciousness have evolved over a period of time. Though the studies are innumerable in number, it is not possible to list every single one in this paper and only a few themes, relevant to this research have been included.

The first set of literature reviewed related to brain consciousness. Certain themes which have been studied in the realm of management studies include the implication for managers arising from the functional differences between the left and right sides of the brain (Hines, 1987); the neuroscience of leadership (Rock and Schwartz, 2006; Waldman, Balthazard and Peterson, 2011); inferences for business ethics (Salvador and Folger, 2009); organizational neuroscience (Becker and Cropanzano, 2010); the role of intuition in management research (Akinci and Sadler-Smith, 2012) and application of neurosciences in consumer behavior and marketing (Touhami *et al.*, 2011).

The second set of literature review is available in the domain of mind consciousness. It was Harung, Heato and Alexander (1995), who proposed that consciousness, caused changes in behaviours related with leadership. Schyuler (2010) investigated the relationship between leadership integrity and mind training and also undertook studies in *Lojong*, a concept in Tibetan Buddhism used as a method for training the mind to develop leaders.

The third important facet of consciousness is spiritual consciousness. Mayer (2000, p.48) defined spiritual consciousness as ‘attending to the unity of the world and transcending one’s existence, consciously entering into heightened awareness states, attending to the sacred in everyday matters, structuring consciousness so that problems in living are always seen in the context of life’s ultimate concerns and desire to act’. Reave (2005), has reviewed over 150 studies which find a clear relationship between spiritual values and practices, and, effective leadership. This aspect is especially important for management studies where business leaders take decisions which impact the lives of all their stakeholders.

The relevance of spiritual consciousness has been emphasized by Prof. Prem Saran Satsangi, Chairman, Advisory Committee on Education, Dayalbagh Educational Institute. According to Satsangi (2013), “the order of the empirical world itself has an order, an underlying order of second degree, which rests on the intuitive consciousness that guides and prompts development of systems, with apparently purposive and telic behavior”. He also states that “the fundamental axiom of macrocosmic / microcosmic spiritual consciousness is that the origin of the macrocosm is an infinite spiritual energy source or reservoir known as the Supreme Creator or Being or Super Positive source or reservoir known as the Supreme Creator or Being or Super Positive Pole accompanied by the omni – quantum spiritual force – field of consciousness ranging from the Super Positive Pole of full spirituality to the Nether or Negative Pole of depleted spirituality; and each constituent fundamental element of this

omni – quantum spiritual force field, known as the spirit force of consciousness (monopole), is the one which possesses prime energy and that all other forces (mental or physical) of creation or nature have been evolved by the association of this spirit force with media (mental or physical) of different kinds” (Satsangi, 2013. p.37 in edited book by Sriramamurty, Prashant and Mohan, 2013)

Hence, what may be interpreted here is the phenomenon of the spirit controlling the mind, which in turn controls the physical body, hence binding all three aspects of brain, mind and spiritual consciousness. This refers, hence to the relevance of all three in the development of human beings, especially business leaders.

## *2.2 Studies on Themes Interfacing Management Studies and Consciousness*

One of the key aspects of management studies is leadership. Leaders have been defined as entities who guide others, due to possession of either superior traits (Barnard, 2003), or, people skills (Ward *et al.*, 2007), along with the ability to ‘articulate visions and create the environment in which to accomplish things’ (Russell and Stone, 2002). A key aspect of leadership has been pointed out by Hersey and Blanchard (1972) as the capability to respond to different situations.

In the sphere of educational institutions, Jones (2012) in her thesis on qualitative study of post secondary educational leadership practices observed that the 8 respondents were not familiar with conscious leadership practice as a term. However, the key leadership practices of the respondents, related to, developing relationships with people on a personal level and connecting with them. Moreover, faced with uncertainty, leaders developed a shared consensus on how to approach the problem. They learnt to become reflective and use collaboration and co-operation to meet organizational goals. Jones also observed that since they were critical thinkers they did not conform to any one leadership style. While interesting, the thesis is devoted to a study of educational leaders and it may not be completely relevant in the context of corporate functioning.

The relevance of consciousness in the sphere of corporate functioning has been examined by many researchers. Some of the following studies were presented in the Science of Consciousness Conference, organized by the University of Arizona, USA over a period of years and have been collected from the book of abstracts.

Malhotra and Malhotra (2013), stated the relevance of generating a new mindset, called new management consciousnesses by Joiner, 1994. This consciousness, according to them is causal and impacts individual and organization functioning.

Entrepreneurial consciousness was modeled by Rajwanshi, Sri – Narain, Narain, Srivastava and Swami (2013) using causal loop diagram methodology and included aspects related to planning, organization, control, leadership, ethical, ecological and research and development consciousness among others.

In a discussion on the methods involved in developing intuitive abilities amongst managers, Das and Srivastava (2013) have pointed to the relevance of meditation. Amongst the benefits, they observed that intuitive ability helped managers take quick, accurate and confident decisions in scenarios of risk and uncertainty. Performance implications were observed by Srivastava *et al.* (2013) in the area of new product design amongst long term practitioners of meditation and those who practiced it instantaneously.

The studies show various aspects and nuances of consciousness in the area of business, but fall short of addressing the qualities that are of importance in conscious leaders. Most of the studies on consciousness have studied the phenomenon in isolation or with a key focus area. Hence, an attempt is made through the present study to address this gap by taking into account the views of practitioners regarding the desirable attributes of conscious leadership, especially in the Indian setting. It is hoped that most of the aspects of consciousness would be addressed in this study.

### 3. RESEARCH METHODOLOGY

The present section first discusses the data sources, tool and sample selection, after which the method of analysis is elaborated upon.

#### *3.1 Data Sources, Tool and Sample selection*

To understand the key qualities of conscious leaders a questionnaire was developed, referencing traits from several studies on leadership. This is potentially one of the first questionnaires deployed amongst business leaders, which directly references traits which may be considered necessary amongst conscious leaders. It is due to the lack of availability of a standard questionnaire referencing attributes of conscious leaders that the questionnaire used in the present study was self developed by the researchers' basis review of literature. It was not expected that all traits used in the questionnaire would qualify as important from the

perspective of conscious leadership. Hence, a five point likert scale question was used to get respondent views on agreement or disagreement with the traits in question. To address the missing components of conscious leadership, the respondents were also asked to provide their opinion through an open ended section of the questionnaire. The responses to this section constitute the qualitative analysis in section 4.5. The table 1 highlights the authors who have referenced qualities of leaders and which have been used by the authors for the purpose of the study.

The respondent base constituted several leaders from the business arena. A sampling frame of top 500 firms basis turnover was procured from the Confederation of Indian Industry (CII) in Gurgaon, India and others sources like details of business leaders from industry associations like PHD Chambers of Commerce and FICCI, as well as social media platforms like LinkedIn were leveraged to circulate the questionnaire tool.

The questionnaire was administered via Survey Monkey, an online tool for hosting and conducting surveys. A confidentiality clause was incorporated to ensure respondent and organization privacy.

TABLE 1

## LEADERSHIP QUALITIES AND AUTHORS

Qualities	Readings
Self awareness	Plato, Levy (2012), Jones (2012), Gosling (2003), Bass and Steidlmeier, 1999
Conscious of effects on others	Ketola (2009)
Ability to influence the organization	Avolio, B. J., Zhu, W., Koh, W., and Bhatia, P. (2004)
Sound understanding of global issues	Cooper (2002)
Emotional Intelligence	Goleman (1995), Anderson and Anderson (2001), Brown (2011)
Holistic view of the organization	Carter*
Systems orientation	Carter*, Anderson and Anderson (2001)
Intellect	Pienaar (2009)
Reflective	Pruzan (2001)
Vision	Renesch (2003)
Desire to learn	Pruzan (2001), Renesch (2003)
Ability to share power	Carter*, Raelin (2003) cited in Gosling (2003)
Ability to create an environment for team to succeed in	Anderson and Anderson (2001)
Ability to understand what the stakeholders expect from the organization	Renesch (2003)
Integrity	Confucius, Bass and Steidlmeier, 1999, Welch (2001)

Footnote: \* Center for Conscious Leadership

### 3.2 Method of Analysis

Descriptive analysis, reliability test, principal component factor analysis, Anova and content analysis have been used in the present study.

For quantitative analysis, before conducting factor analysis, Kaiser-Mayer-Olkin (KMO) and Bartlett's test were performed to understand whether Factor analysis may be carried out for the data collected. If a KMO measure greater than 0.5 is achieved (Lee, 2006), then this supports the use of factor analysis for the data in question. Bartlett's test of sphericity indicates that the factor analysis is significant if the  $p < 0.05$ . This was also conducted.

As per standard procedure, correlation analysis among the variables was first carried out and two correlated variables out of 17 initial variables were removed from the analysis. The retained factors were evaluated for reliability and cronbach alpha was executed in SPSS.

Principal component analysis, which is a ‘method for finding the initial factor solution’ (Manly, 1994) was conducted, since the number of measures was large and it was difficult to visually seek out correlations among them. This helped identify the number of individual constructs required to account for the pattern of correlations observed (Fabrigar and Wegener, 2011). Factors with eigenvalues greater than 1 were taken into account. Varimax, which is often used as a choice of rotation method, was used whilst running the factor analysis.

Next, ANOVA was executed to understand how significantly the variable in question impacted each measure of the construct. This helped confirm the reliability of the factors on various respondent segments.

For qualitative analysis, content analysis was used to create themes for the open ended responses to the question of qualities of conscious leaders. These themes were further categorized into qualities demonstrated in the organizational space, social space and personal space of leaders. Further, the content was aligned as per categories to develop eight main themes.

#### 4. RESULTS AND DISCUSSION

As previously noted, a questionnaire was used to gather respondent views about the key attributes of conscious leaders. The respondent demographic profile is listed below.

##### *4.1 Demographic Profile of the Respondents*

The demographic profile of the respondents is highlighted in Table 2 below.

In terms of age profile, 31.13% of the respondents (33) were in the 22 to 34 years age group, 41.51% (44) were in the 35 to 44 years age group, and 27.36% of the respondents (30) were above 45 years of age. With respect to diversity, 31.77% of the respondents (34) were females, with 68.22% (73) being males. In terms of work experience, 29.9% of the respondents (32) had less than 10 years of work experience, and the remaining 70.09% (75) had greater than 10 years of work experience.

TABLE 2

## DEMOGRAPHIC REPRESENTATION OF THE RESPONDENTS

Number of Respondents	Categories	Respondents (Number)
Age Group	22 to 34	33
	35 to 44	44
	45 to 54	21
	55 to 64	8
	Not Known	1
Gender	Female	34
	Male	73
Work Experience	0 to 5 years	11
	6 to 10 years	21
	11 to 15	24
	16 to 20	23
	21 and more years	28
Management Level	Senior Management (Vice President and Higher)	57
	Others	50

#### 4.2 Organizational Profile of the Respondents

The 107 respondents belonged to 79 organizations<sup>2</sup>. However the organizations spanned automotive, academia, IT enabled services, computer software, banking, chemicals and fibres industries, consulting, diversified and infrastructure sector, FMCG sector, insurance and financial services sector, non – profit sector, pharmaceuticals and electronics.

#### 4.3 Quantitative Analysis: Results from Factor Analysis

As a first step, the correlation coefficient among various factors was calculated in SPSS and two factors, viz. ‘Experience’ was observed as being correlated with ‘Reflective’ ( $r = 0.557$ ) and ‘Experience’ was also observed to be correlated with ‘appreciation of diversity’ (0.516). ‘Appreciation of diversity’ was in turn detected as being correlated with ‘reflective’ (0.528). It was, hence, decided to remove two variables from the overall list of

<sup>2</sup> For ethical reasons stated during the data collection period, it has been decided to keep the organization names confidential.

factors. These were ‘appreciation of diversity’ and ‘experience’. However, ‘Reflective’ was retained.

To test the reliability of the 15 item question, cronbach alpha was carried out in SPSS, and it was observed as being reliable at 0.80.

As a precursor to factor analysis, KMO and Bartlett’s test were performed. Since, KMO measure of sampling adequacy was observed as being greater than 0.5 at 0.673, the test condition was adequately met. Bartlett’s test indicating the significance of the factor analysis was also observed to be significant ( $p = 0.00$ ). The results of the KMO and Bartlett’s test are indicated in Table 3.

TABLE 3  
KMO AND BARTLETT TEST RESULTS

Kaiser-Meyer-Olkin Measure of Sampling Adequacy.	.673
Approx. Chi-Square	369.990
Bartlett's Test of Sphericity df	105
Sig.	.000

Since both test conditions were met in this case, factor analysis was carried out in SPSS.

The descriptive statistics and rotated component matrix key variables are depicted in Table 4.

It is observed from the descriptive statistics that all factors except one, have a mean rating of greater than 4. The standard deviation is least for self awareness which leads one to understand that most of the people felt that awareness of the self is an important attribute for conscious leaders to possess.

TABLE 4  
DESCRIPTIVE STATISTICS AND ROTATED COMPONENT MATRIX FROM  
FACTOR ANALYSIS

Descriptive Statistics			Rotated Component Matrix			
Variable	Mean	Standard Deviation	1	2	3	4
Self Awareness	4.63	0.506				0.777
Conscious of effects on others	4.37	.628				
Ability to influence the organization	4.39	.616		0.738		
Sound understanding of global issues	4.13	.655		0.751		
Emotional Intelligence	4.40	.601				0.737
Holistic view of the organization	4.37	.674				
Systems orientation	3.90	.873				
Intellect	4.26	.659			0.798	
Reflective	4.00	.758				
Vision	4.57	.697				
Desire to learn	4.45	.623				
Ability to share power	4.17	.822	0.742			
Ability to create an environment for team to succeed	4.61	.647	0.833			
Ability to understand and deliver what the stakeholders expect from the organization	4.53	.625				
Integrity	4.77	.612				

Extraction Method: Principal Component Analysis

Rotation Method: Varimax with Kaiser Normalization.<sup>a</sup>

<sup>a</sup> a Rotation converged in 6 iterations.

The factor analysis highlighted the presence of 4 key factors which are enumerated below.

- Factor 1: Ability to create an environment for the team to succeed in, and Ability to share power
- Factor 2: Sound understanding of global issues, and Ability to influence the organization

- Factor 3: Intellect
- Factor 4: Self Awareness, and Emotional Intelligence

The next section highlights the universal applicability of the factors which have been derived from the analysis.

#### *4.4 Universal Applicability of Factors*

To test whether the factors were universally applicable across years of work experience ANOVA was conducted and observations noted whether for any of the variables the p – value  $\leq 0$ . The strata under work experience were as follows:

Work Experience: 0 to 5 years, 6 to 10 years, 11 to 15 years, 16 to 20 years, 21 and more years.

Results on strata of ‘work experience’ show that for all factors, except ‘ability to influence the organization’ (p = 0.045), the p-value was greater than 0.05, indicating no significant difference across strata responses with respect to the factors.

#### *4.5 Qualitative Analysis: Analysis of Verbatim Comments of Respondents*

The qualitative analysis of verbatim comments was analysed using content analysis and statements were arranged according to themes in three different spaces. The first one referred to statements which related to qualities demonstrated by conscious leaders in the organizational space, the second referred to qualities demonstrated in the social space and the third one referred to qualities demonstrated in the personal space. The related themes were then arranged together between various spaces. These are illustrated in Table 5 below.

TABLE 5

## FINDINGS FROM THE QUALITATIVE ANALYSIS ABOUT QUALITIES OF CONSCIOUS LEADERS DEMONSTRATED IN VARIOUS SPACES

Organizational Space	Social Space	Personal Space
<b>Theme 1</b>		
<ul style="list-style-type: none"> <li>▪ Aware</li> <li>▪ Understands the environment</li> <li>▪ Has Vision, Strategizes and brings opportunities to the organization, Able to plan and predict the future</li> </ul>	<ul style="list-style-type: none"> <li>▪ Influential</li> </ul>	<ul style="list-style-type: none"> <li>▪ Mental Maturity</li> </ul>
<b>Theme 2</b>		
<ul style="list-style-type: none"> <li>▪ Develops Leaders</li> <li>▪ Motivates</li> </ul>	<ul style="list-style-type: none"> <li>▪ Empowers others</li> <li>▪ Good Interpersonal relations</li> <li>▪ Develops Trust</li> <li>▪ Has Empathy</li> <li>▪ Knows and Guides</li> </ul>	<ul style="list-style-type: none"> <li>▪ No Ego</li> <li>▪ Self Aware</li> <li>▪ Emotional Maturity</li> <li>▪ Self regulates emotions</li> <li>▪ Sensitive</li> </ul>
<b>Theme 3</b>		
<ul style="list-style-type: none"> <li>▪ Competent</li> <li>▪ Efficient</li> <li>▪ Decisions as per need</li> <li>▪ High speed of decision making</li> <li>▪ Objective</li> </ul>		<ul style="list-style-type: none"> <li>▪ Values Time</li> <li>▪ Disciplined</li> <li>▪ Analytical</li> </ul>
<b>Theme 4</b>		
<ul style="list-style-type: none"> <li>▪ Ethical Conduct</li> </ul>		<ul style="list-style-type: none"> <li>▪ Honest</li> </ul>
<b>Theme 5</b>		
<ul style="list-style-type: none"> <li>▪ Presence of Mind</li> </ul>		<ul style="list-style-type: none"> <li>▪ Mindful</li> </ul>
<b>Theme 6</b>		
<ul style="list-style-type: none"> <li>▪ Transformational</li> <li>▪ Innovates and brings about Impact</li> </ul>		<ul style="list-style-type: none"> <li>▪ Flexible</li> </ul>
<b>Theme 7</b>		
<ul style="list-style-type: none"> <li>▪ Transparent</li> </ul>		
<b>Theme 8</b>		
	<ul style="list-style-type: none"> <li>▪ Universal Brotherhood</li> <li>▪ Compassion</li> </ul>	<ul style="list-style-type: none"> <li>▪ Religious</li> <li>▪ Beyond Self</li> <li>▪ Values</li> </ul>

The eight themes which have been aligned from the verbatim comments of the respondents may be explained thus.

Firstly, conscious leaders are aware; they understand the macro environment facing the organizations and think and plan proactively about organizational responses to these

factors and situations. In the social space they are influential and at a personal level they have mental maturity to deal with the changes in the environment.

Secondly, they develop leaders and motivate their teams. They have excellent inter – personal relations, and nurture trust within the teams. They exhibit empathy towards their fellow colleagues. At a personal level, they are self aware, and have learnt to control their ego as well as emotions.

Thirdly, conscious leaders take decisions as per need, are competent and efficient. At a personal level, they value time, are disciplined and analytical.

Fourthly, conscious leaders demonstrate ethical conduct and live honestly in their personal space.

Fifthly, they have the presence of mind to respond to different situations and they are mindful, and practice being in the present at all times.

Sixthly, conscious leaders are transformational and try to bring about impact through decisions.

Seventhly, after awareness and being self aware, most of the respondents have alluded to the fact that conscious leaders are transparent and credible.

The last quality demonstrated is that of universal brotherhood towards others, and being compassionate towards all beings. Conscious leaders are religious, and look beyond their own self towards others.

## 5. DISCUSSION AND CONCLUSIONS

This section discusses the joint findings of both quantitative and qualitative analysis and concludes the paper with areas of further research.

The quantitative and qualitative analysis highlights three primary factors which are of significance in both the analysis.

The first key attribute is associated with leadership ability to *foster an environment which would help teams succeed and also be able to share power*. In today's complex times, knowledge no longer resides in one person alone. Employees learn to co-exist in a shared

power environment, with due respect for the knowledge each one has imbibed, continuously learning from each other and evolving to find further meaning in work.

Further, this is associated with another important concept of diversity. Harrison (2005, p. 206) wrote that leaders can “help unlock their DNA of success by providing a work culture that is flexible, adaptable and respectful of diverse skills and personalities. It will also be collaborative, itself entrepreneurial and conducive to innovation from anyone”. This aids the organization integrate various skills in the form of corporate DNA which it may require at different points of time.

An ability to share power is opposite to the autocratic leadership style and requires leaders to practice humility without absolving themselves of the accountability for results. They help others in the team perform to the best of their abilities, and reach higher pinnacles of achievement, reaching win-win outcomes for people and organizations. Bolden, Gosling, Marturano and Dennison (2003) discussed the concept of ‘servant leadership’ as a ‘practical philosophy which supports those who choose to serve first and then lead as a way of expanding service to individuals and institutions’. According to the Center for Servant Leadership website, (April 2003), as cited in Bolden, Gosling and Dennison (2003), this leadership encourages ‘collaboration, trust, foresight, listening and the ethical use of power and empowerment’. The result is significant since it was observed to be an important leadership quality by other researchers like Raelin (2003).

The second important factor highlights the importance of what we call “social” (Researcher’s term) consciousness. This incorporates the ability to have a sound understanding of global issues, and being able to influence the organization with integrity. This result finds an echo in the work of Cooper (2002). With most multi-national companies having footprints in various countries, leaders need to understand the macro – environmental factors associated with their businesses. They also need to develop foresight of how these factors would impact their business.

Psychological empowerment of employees helps leaders influence for better outcomes (Avolio *et al.*, 2004). Organization structure, culture and climate are also important variables that have been observed by other researchers as helping the organizations achieve goals (Koberg *et al.*, 1999; Spreitzer, 1996; Spreitzer *et al.*, 1999, as cited in Avolio *et al.*, 2004).

Influencing ability is also associated with the leader's ability to communicate his vision and thoughts. What is meant here is not only the ability for personal communication but also an intuitive ability to design effective communication channels which transmit messages to the correct recipients at the right time, for intended consequences to transpire. This is an infallible part of intellectual integrity – how it is used to influence an organization – board, shareholders and employees to take appropriate decisions for the benefit not only of the organization but the wider community. This result is similar to the observations of Avolio *et al.* (2004).

The third key factor is being self aware, which is a key part of emotional intelligence. Many researchers like Levy (2012), Jones (2012), Gosline (2003) and, Bass and Steidlmeier (1999) have also highlighted its importance.

Developing self awareness helps leaders understand themselves, appreciate their fellow colleagues and their motivations. This helps channelize energies in the right direction for organizational success. It is deeply associated with self regulation and controlling one's thoughts, emotions and feelings to lead to proactive actions which further helps build their credibility in the organization.

Such awareness helps in fine tuning on the job performance of every kind – managing feeling, keeping oneself motivated and developing good work – related social skills, including those essential for leadership and team work. This gauge is related to our inner core values, and, it guides our conscious or unconscious motivations in the work sphere.

The quantitative analysis highlighted the importance of intellect in conscious leadership.

Intellectual ability helps conscious leaders direct efforts towards understanding and delivering on organizational commitments and key focus areas.

The qualitative analysis, on the other hand, also indicated the importance of ethical conduct, refined decision making ability, displaying presence of mind and being transformational in the organizational space. It also referred to them believing in universal brotherhood in the social space and displaying qualities of compassion and selflessness in the personal space. It was also pointed out that they may be religious.

These constitute attributes, mindsets and values which the respondents observed as being important and were not included in the questionnaire (except Integrity). A merger of the attributes used in the questionnaire and the new attributes from qualitative analysis could hence form the universe of characteristics of conscious leaders. This is the significance of the present research. It extends the understanding of leader attributes, especially when looked at from the lens of consciousness.

Whilst the study has provided insights into the key qualities of conscious leaders, it has certain limitations. Due to time constraints it was not possible to extend the time span beyond 107 respondent answers which form the basis of the study. More sections of society can also be included namely government sector to provide a larger base of representative society.

Further research in this area may be conducted by enhancing the questionnaire with the findings from the qualitative analysis to provide a more comprehensive view on conscious leadership.

It would be interesting to study various aspects of consciousness – related to the brain, mind and spirituality and their linkages with conscious leadership. Some of the areas of future research which may be potentially studied are the methods deployed by conscious leaders in removing the ego and self in the organizational domain, the role of religion in developing consciousness among business leaders, and, mindful work and consciousness. It is hoped these areas would be of interest to researchers in the field of management.

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## **Effect of Industrial Agglomeration on Wages in Unorganised Manufacturing Sector**

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### ABSTRACT

The study investigates the possible relation between agglomeration economies and wages of hired workers in the unorganised manufacturing sector. In particular, effect on firm level wages of industrial diversity of organised manufacturing sector in a district, measured by Herfindahl index, has been analysed. Industrial diversity creates opportunities for intra-industry linkages, knowledge spillovers and greater innovation. Using geographical map of India, the study observes that the districts which are industrially more diverse have relatively higher level of wages. While empirical estimations reveal that a number of industries that are situated in districts with diverse presence of industries in the organised manufacturing sector have a positive effect on the per capita wages of hired worker in unorganised manufacturing sector. The impetus required in augmenting the process of agglomeration at regional level has been highlighted at the end.

Keywords: Unorganised Manufacturing Sector; Organised Manufacturing Sector; Industrial Agglomeration

### 1. INTRODUCTION

Wage differentials exist among various groups of people segmented on the basis of occupation, industrial sectors, gender or regions. Workers in different occupations may be paid differently, or those in the same occupation located in different regions may receive different wages. There are several factors that are responsible for wages to differ across various groups. The famously known framework proposed by Mincer (1974), called the Mincerian equation includes the individual characteristics of workers such as education, age,

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work experience and gender as the determinants of wages. The equation has been used extensively in literature to estimate the returns to education, gender wage gap as well as the impact of individuals' work experience.

Wage differential can also be characterised as being spatial by nature. The location of the firm as well as the individuals working therein is considered to be one of the important factors in affecting wage rates. The earlier studies that marked the beginning into the investigation on regional wage differential in urban areas found a negative relation between wages and the distance between location of an individual's job and the central business area (refer to Segal, 1960; Moses, 1962; Eberts, 1981; Madden, 1985; McMillen and Singell, 1992; Ihlanfeldt, 1992 among many). A negative relation indicates existence of wage gradients that are steeper as one moves closer to the central business area within an urban area. Here, gradient refers to the higher concentration of wages in the central business area vis-à-vis, the peripheral areas.

The concentration of industries in a few locations that result from the various factors discussed above lead to higher wages and/or attract workers to migrate from nearby regions, thereby leading to overall higher incomes and expenditures in these regions.

With this background, the study attempts to test the hypothesis that industrial agglomeration affects wages in unorganised manufacturing sector. Industrial agglomeration is not restricted to large industries alone, but also to small scale industries that tend to agglomerate in certain areas. However, the focus is not on the factors affecting the agglomeration of unorganised manufacturing sector firms. The study assumes the presence of agglomeration. The effect of such industrial concentration on wages has been investigated at district levels for eighteen states across India. Herfindahl Index has been used as a measure of the industrial diversity in a region or the composition of local economic activity. Industrial diversity provides a platform to the firms to create inter- and intra-industry linkages that lead to exchange of information and technological knowledge among the firms that helps them to build production networks and innovate. The study finds diversity of the organised manufacturing at district level to be affecting wages in unorganised manufacturing sector positively for a number of industries at NIC 2 digit level.

The study is organised into the following parts: section 2 pertains to literature review followed by descriptive statistics in section 3. The data used, its sources and the methodology followed in the empirical estimations for testing the assertion is described in section 4. Section 5 presents and discusses the empirical estimation results and section 6 concludes.

## 2. LITERATURE REVIEW

The wage-agglomeration linkage causing inter-regional variation in wages has been perceived by different studies in a number of ways. We can divide the explanation into the direct effects and indirect effects of agglomeration on wages. The direct effect is generated by the distance factors as well as the externalities/economies created in an agglomeration discussed below. While the indirect effect of agglomeration permeates through the relationship between labour productivity and wages. We discuss the direct effects before going into the indirect effects.

The early literature on intra-urban wage differential marked the beginning of the importance of studying location of the firm and distance factors as important determinants of wage differentials. The intra-urban wage differential by these studies has been envisaged to be consisting of a core/central city where all economic activity takes place and a peripheral suburban area which is mostly residential (Segal, 1960; Moses, 1962; Eberts, 1981; Madden, 1985; McMillen and Singell, 1990; Ihlanfeldt, 1992). As the core is approached, wages tend to be higher, indicating negative relationship between distance to the core and wages, termed as wage gradient.

Eberts (1981) estimated wage gradients for different groups of labour employed in various municipalities in six counties of Chicago. The study found significant wage gradients for four out of five labour groups, with the monthly wage on an average declining by \$24 with each additional mile from the city's central area.

A similar study by Ihlanfeldt (1992) for various worker groups, as well as, across gender and race was done for Philadelphia, Detroit and Boston urban areas. The study also found statistically significant negative wage gradients. Additionally, the study found that the blacks working in the suburban areas travelling from the central city were not being compensated for the higher commuting costs incurred to get to their workplace.

Using the work location and individual characteristics data for seven northern US cities, McMillen and Singell (1990) found significant negative wage gradients, using the predicted work location choice as an explanatory variable in the estimated wage equation.

The more recent literature has extended the discussion to include the economies that are generated in an industrial agglomeration, to explain the difference in wages across regions. Based on the New Economic Geography (NEG), the agglomeration economies arising out of the existence of a large market potential, employment density and specialisation have been used by many studies to explain inter-regional variation in wages (Graham and

Melo, 2009; Graham and Kim, 2008; Mion and Naticchioni, 2005; Combes *et al.*, 2008a; Combes *et al.*, 2008b).

Market potential signifies the extent of product market interactions related to input-output linkages. Agglomeration economies may not be limited to being intra-regional. There may be neighbouring effects as the location of firms producing for final demand and the intermediate production firms may not be in the same administrative regions (Tirado *et al.*, 2003), but they may be interacting with each other. In such case, the market potential measure of agglomeration economies is an appropriate choice to capture this interaction.

Graham and Melo (2009) find that for Great Britain, the effect of market potential is significantly positive. The elasticity of wages to market potential is estimated to be 0.058, implying that doubling the size of market potential leads to approximately 5.8% rise in wages after controlling for firms' unobservable heterogeneity and correcting for reverse causality between labour productivity and agglomeration.

Similar elasticity measured by Graham and Kim (2008) is 0.84% for manufacturing sector, however, the individual industry elasticities range from -13.3 per cent in manufacture of basic metals to 14.3 per cent for the manufacture of machinery and computers. Combes *et al.* (2008b) find 2.4 per cent elasticity for a panel of French workers, controlling for worker characteristics, industry and worker fixed effects and local market characteristics. Mion and Naticchioni (2005) found market potential elasticity for Italian provinces between 1991 and 1998 to be 3.19 per cent.

Urbanisation economies that signify between-industry interactions are also important factors for wage differential. Employment density measures (employment in a region as percentage of its total land area) have been used in the literature to capture the effect of urbanisation economies (Fingleton and Longhi, 2013; Matano and Naticchioni, 2013; Combes *et al.*, 2008b; Graham and Melo, 2009; Ciccone and Hall, 1996).

Fingleton and Longhi (2013) find a significant positive relation between employment density and wages, particularly, for female full time employees in England. The effect on male wages is not very significant. Doubling employment density leads to a 6.22 per cent increase in female wages, while that for men it increases by 2.4 per cent which is not statistically significant.

Matano and Naticchioni (2013) also find a significant positive effect of employment density after controlling for individual fixed effects, both for industry and services sector. Combes *et al.* (2008b) estimate an elasticity of wages with respect to employment density to

be 3 per cent. While Mion and Naticchioni (2005) find a lower employment density elasticity of 0.22 per cent for Italian provinces in the period 1991-1998.

The localisation economies also contribute to the regional variation of wages. Industrial diversity in a region or the composition of local economic activity, measured as the inverse of a Herfindahl Index, has been used as a measure of the industrial diversity (Combes *et al.*, 2008b; Graham and Melo, 2009).

In the Indian context, there has been hardly any study that has looked at whether industry agglomeration has an effect on wages in the unorganised manufacturing sector firms. The effect of agglomeration economies on wages can be explained from the influence that the industrial agglomeration has on the ability of firms to decide wages.

The presence of a number of firms within an industry or different industries in a region provides a pool of appropriate labour that reduces the search costs for the firms. However, if the own industry concentration is high, the firms may be competing with each other to obtain and retain labour and in the course, wages tend to rise. This can be explained by the efficiency wage theory (Shapiro and Stiglitz, 1984) where the firm is willing to pay more than the marginal revenue product to the labour employed to retain them.

In the context of unorganised manufacturing sector which is characterised by low levels of skills, the efficiency wage theory may seem implausible because majority of enterprises within this sector is own account by type of ownership. Nevertheless, one-third of the total number of enterprises is non-Directory (NDME) and directory manufacturing enterprises (DME) that employ hired labour. This study pertains to the study of wages of such enterprises that have hired labour below ten in number. Thus, the direct effect of industrial agglomeration on wages can be explained through the inter-play of demand and supply forces in the labour market.

### *2.1 Wage-Productivity Linkage*

The other strand of explanation of the effect of agglomeration on wages pertains to the indirect effects indicated in the beginning of the discussion. The indirect effects are based on the linkage between wages and labour productivity.

Wages are the compensation for the ability of the labour to produce a good or service. Therefore, productivity in general and labour productivity, in particular, is an essential factor in determining wages. It is also well noted that the regions that are more productive fetch the labour more compensation. Thus, labour productivity is an important factor that can explain the regional wage differentials. Mitra (2014) notes that the large cities that are more

productive are able to provide better economic as well as non-economic opportunities and therefore, better wages.

Fu and Ross (2013) have found that the agglomeration effects are enhanced when unobserved worker productivity is controlled for by using residential locations fixed effects as workers sort themselves in residential locations based on their permanent income or productivity they possess. The rationale is that more productive workers locate themselves in agglomerated areas as they expect they would be able to afford the higher housing costs, whereas, the less productive workers would prefer the areas around the agglomeration. Any wage difference after controlling for productivity would then arise because of greater commute time from different residential locations within the agglomerated areas due to congestion (Timothy and Wheaton, 2001).

However, the direct link between wages and labour productivity has been observed to be weak in nature as there are other factors that do not allow wages to grow in tandem with the growth in labour productivity. In case of India, Paul (2014) notes that the direct link between the two is weaker due to the archaic labour laws and ineffective enforcement systems. Mishel and Gee (2012) note that the median wages in the US as a proportion of labour productivity has fallen over the years, that is, from 45.9 per cent in 1973 to 26.4 per cent in 2011.

There has been an overall widening gap between the average wages and labour productivity in the developed countries. According to the Global Wage Data by the International Labour Organisation (ILO), Figure 1 gives a broad overview of the fact where average real wages have not kept pace with the rising labour productivities. The data pertains to 36 developed economies and the index is calculated as weighted average of year-on-year growth in average monthly real wages based on 1999 values.

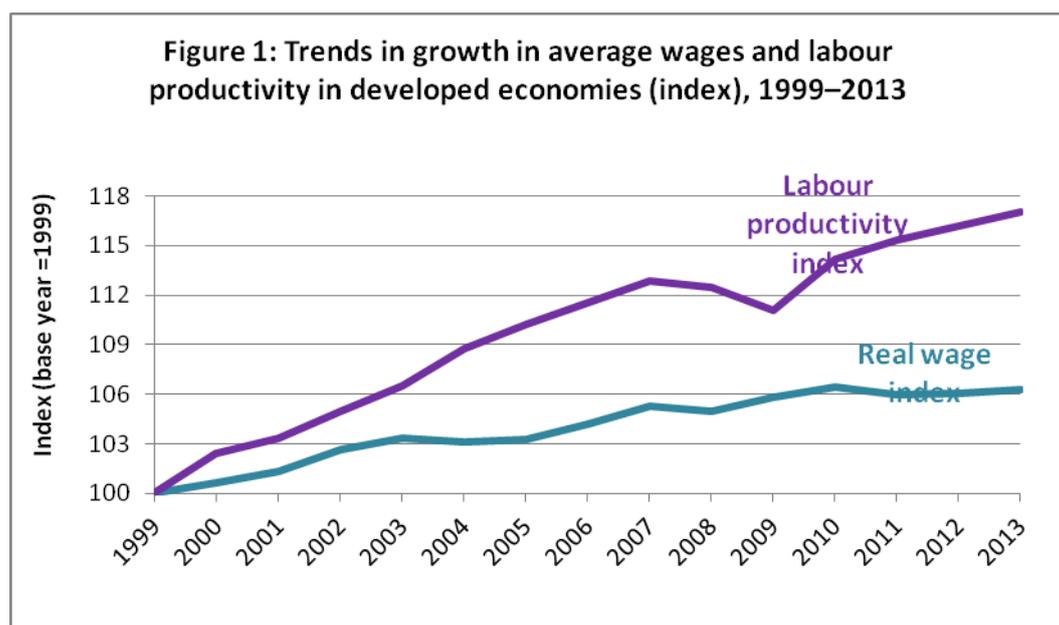


Figure 1: Trends in Growth in Average Wages and Labour Productivity in Developed Economies (index), 1999-2013

Source: ILO, Global Wage Database

A similar story has been observed for India's unorganised manufacturing sector between 2000-01 and 2010-11. Figure 2 depicts the growing gap between average wages and labour productivity in real terms across time. Although the time span is not very long, the growing disparity in both measures can be clearly observed.

This is true for the organised manufacturing sector also, where the disparity in labour productivity and wage share in total gross value added has been rising over the years since 1980-81 till 2009-10 as found by Sood *et al.* (2014). They observe a rising share of profits in total gross value added in the organised manufacturing sector in the same period that implies that the rising gains in labour productivity has gone to the capital rather than to workers in the form of higher wages.

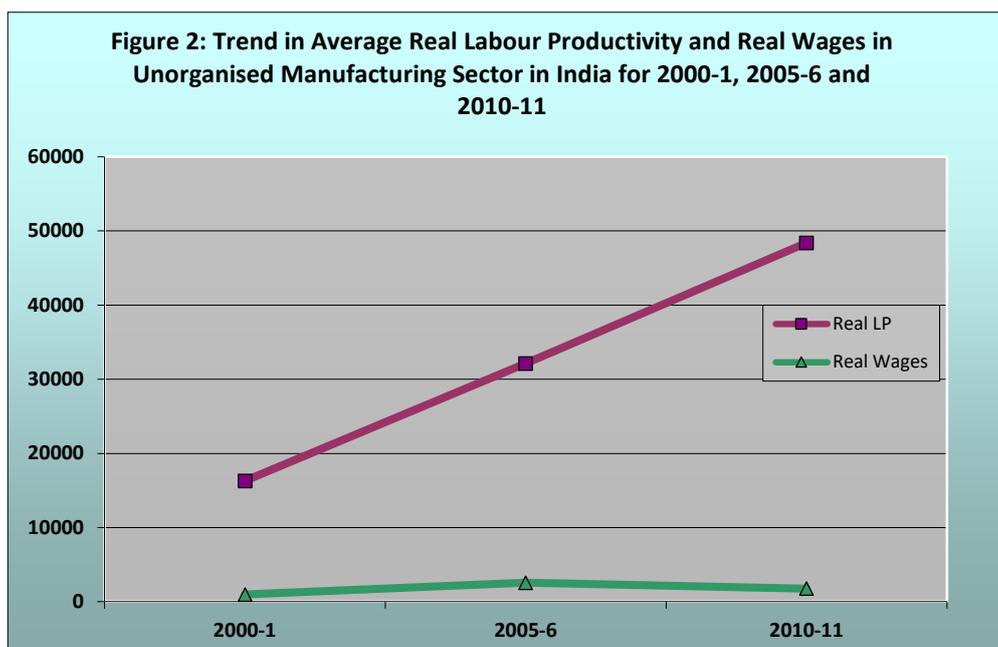


Figure 2: Trend in Average Real Labour Productivity and Real Wages in Unorganised Manufacturing Sector in India for 2000-1, 2005-6 and 2010-11

Source: Calculated from NSS Unorganised Enterprise Survey 56<sup>th</sup>, 62<sup>nd</sup> and 67<sup>th</sup> Rounds

In theory, wages are considered to be strongly linked to labour productivity, although the country or sectoral level data paints a different picture all together. However, at the firm level, the inter-relationship needs to be studied empirically that may reveal a different picture.

### 3. DESCRIPTIVE STATISTICS

#### 3.1 Wage Differentials: India's Manufacturing Sector

The disparity in income distribution in India as discussed above is evident in the manufacturing sector. Table 1 shows the annual per capita wages of workers in the organised and unorganised manufacturing sector. In all the three time periods, the wages in organised part of this sector have been almost two times that in the unorganised sector. Although the wages in both sectors have witnessed an increase over time, the disparity has continued to remain.

TABLE 1  
ANNUAL REAL WAGES PER WORKER IN ORGANISED AND UNORGANISED MANUFACTURING SECTOR

	2000-01	2005-06	2010-11
Organised Sector	52,936	51,542	66,103
Unorganised Sector (NDME+DME)	21,714	26,057	32,621

Source: Reports on ASI and NSS Enterprise Surveys of the respective years

An industry distribution of annual per capita real wages is given in Table 2 for both organised as well as unorganised manufacturing sector for 2010-11. The wage disparity is

more pronounced at the industry level where the organised manufacturing sector wages are more than ten times that of the unorganised sector in some industries.

TABLE 2  
ANNUAL REAL WAGES PER CAPITA IN ORGANISED AND UNORGANISED  
MANUFACTURING SECTOR IN 2010-11

NIC	Organised Sector	Unorganised Sector
10	62,196	19,366
11	83,478	18,291
12	32,437	17,412
13	71,641	29,415
14	65,020	22,196
15	61,854	25,237
16	58,338	28,272
17	86,944	31,272
18	91,755	29,127
19	268,384	27,634
20	106,553	25,848
21	103,065	28,736
22	80,051	31,389
23	62,035	25,873
24	125,321	26,472
25	95,414	35,875
26	112,537	36,829
27	104,621	32,914
28	113,255	39,848
29	123,371	42,512
30	115,216	34,482
31	92,832	27,712
32	93,451	26,382
33	146,582	26,904
1632	NA	21,308

Source: Organised sector wages have been sourced from the ASI Summary Results for 2010-11 and unorganised sector wages have been calculated from the NSS 67th Round Survey Data

### 3.2 Regional Wage Differential

Regional variation of unorganised manufacturing sector wages is evident from Figure 4 that depicts visually the geographical differential in average wages per hired worker in non-directory (NDME, employing less than six hired workers) and directory manufacturing enterprises (DME, employing six or more hired workers) in the unorganised manufacturing sector for 2010-11 at the district level for the 18 states in our study. There is substantial variation in the distribution of wages across districts within a state, as well as, across states. The districts such as Gautam Budh Nagar in Uttar Pradesh, Gurgaon in Haryana, Alwar in Rajasthan in the northern part of India and Bangalore and Mysore in Karnataka, Trivandrum, Wayanad and Idduki in Kerala, Thiruvallur and Kancheepuram in Tamil Nadu and

Aurangabad in Maharashtra towards southern part of India have much higher wages per hired worker compared to other districts in their respective states.

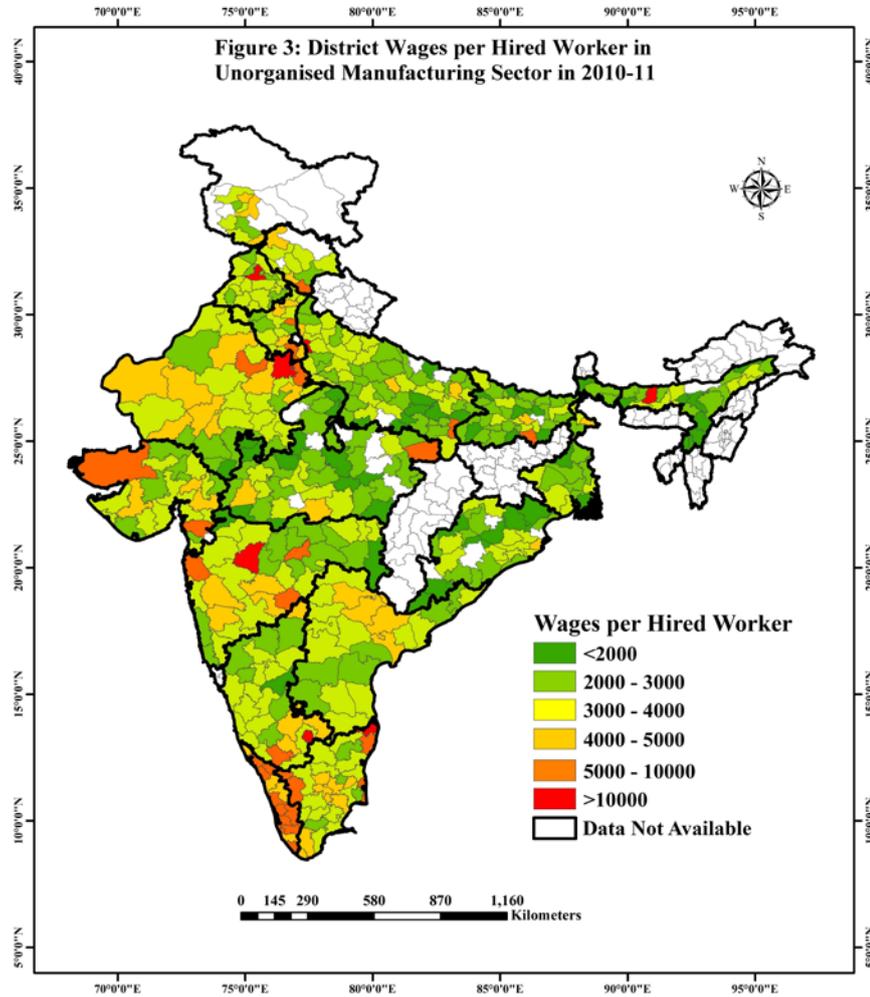


Figure 3: District Wages per Hired Worker in Unorganised Manufacturing Sector in 2010-11

The measure of agglomeration that is considered in the study is the Herfindahl index for the organised manufacturing sector that indicates the extent to which a region is co-agglomerated by diverse industries. A higher value of the index indicates that the region is concentrated by a very few or even one industry.

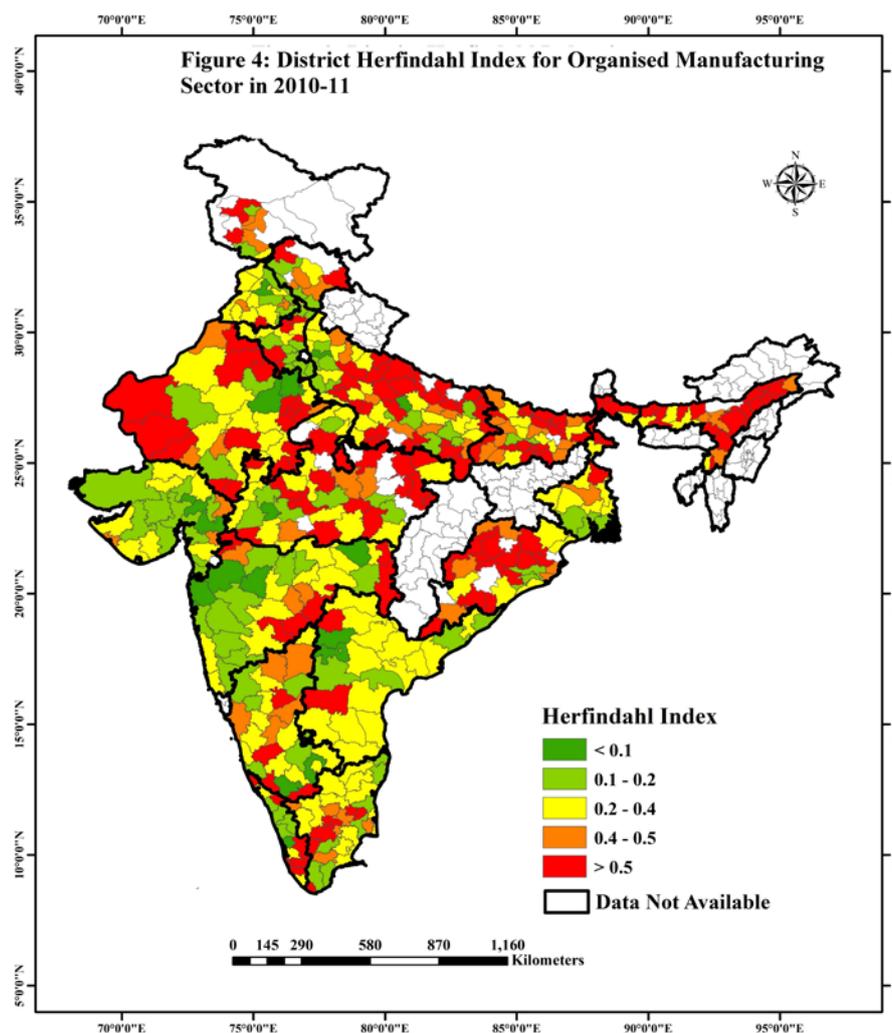


Figure 4: District Herfindahl Index for Organised Manufacturing Sector in 2010-11

Comparing the two figures, it can be seen that the districts where the Herfindahl index is lower, the wages per capita are relatively higher. It means that districts where industrial presence is diverse have higher wages than districts that are concentrated by a few or only one industry. For example, in Rajasthan three districts, viz., Alwar, Sikar and Bharatpur had a very low index value signifying the presence of diverse industries with relatively higher wages, whereas districts like Baran, Jhalawar, Churu etc. which are concentrated with firms in one or two industries have experienced lower wages per hired worker. This is true for other 17 states where districts with industrial diversity have seen firms paying better. The exceptions are districts like Panipat in Haryana, Jamui in Bihar, Latur in Maharashtra and Alapuzhha, Idukki, Pattanamthitta and Wayanad in Kerala where industrial concentration has been observed with very high levels of wages per hired worker in the unorganised manufacturing sector.

The study reveals a similar relation between industrial diversity and wages per hired worker at the industry level for the unorganised manufacturing sector based on the empirical estimations. The subsequent discussion pertains to the econometric estimations carried out to reinforce this observation.

## 4 DATA, VARIABLES AND METHODOLOGY

### *4.1 Data and Variables*

The aim of the study is to analyse the factors behind wage differentials across regions for the unorganised manufacturing sector firms. The data used in this study is the NSS Unorganised Manufacturing Sector Enterprise Surveys for the years 2000-01 (56<sup>th</sup> Round), 2005-06 (62<sup>nd</sup> Round) and 2010-11 (67<sup>th</sup> Round). The factors affecting wages per capita at the firm level have been analysed at the firm level, industry level and district level.

The NSS enterprise survey covers three types of enterprises, namely, own account manufacturing enterprises (OAME, which is run without any hired worker), non-directory (NDME, employing less than six hired workers) and directory manufacturing enterprises (DME, employing six or more hired workers). Thus, our analysis is restricted to NDMEs and DMEs only as they only employ hired workers whose wages are reported in the surveys. The OAMEs are family based firms run mostly by the family members, whose remuneration is not fixed.

The data on total emoluments of the firm is taken to calculate the wages per capita. The value includes the wages/salaries, allowances as well as imputed values of group benefits. The sector specific wholesale price index has been used to deflate wages.

The important determinant that is considered in this study is the presence of agglomeration economies that affect wages per capita in the unorganised manufacturing sector in India. Therefore, agglomeration economies using different measures have been included in this study.

The own industrial concentration in a region is an important determinant as the local labour markets play an important role in generating the appropriate pool of labour that is important for generating increasing returns, productivity and thus, higher wages. It also enables sharing of tacit and codified knowledge, intra-industry linkages and opportunities for greater subcontracting (Chakravarty and Lall, 2007). The study uses location quotients at the district-industry level as the own industry concentration measure.

The LQ is given by the following:

$$Lq_{ir} = (E_{ir}/E_r) / (E_i/E)$$

where,  $E_{ir}$  is the employment of industry 'i' in region 'r' (district in our study),  $E_r$  is the employment in region 'r',  $E_i$  is the total employment in industry 'i' and  $E$  is the total employment in the economy.

If the LQ is greater than one, the industry 'i' would be considered to be concentrated in the region 'r'. LQ, being a ratio of two ratios or proportions, can range from zero to very high values. For this study LQ would be calculated for each industry at NIC 3-digit level located in different districts of the 18 Indian states.

The diverse presence of industries in the same region also plays a crucial role for the smaller firms operating in the unorganised sector as it ensures that the input-output linkages are formed in the region and also provides a platform for innovation and technology and information spillover. Local suppliers present in a region help reduce transaction costs and thereby, increase productivity and wages (Amiti and Cameron, 2007). The industrial diversity in organised manufacturing sector is measured by the Herfindahl index of diversity given by:

$$HI_r = \sum_i \frac{E_{ir}}{E_r}$$

Here,  $E_{ir}$  is the employment of industry 'i' in region 'r' and  $E_r$  is the total employment in region 'r'. The maximum value of the Herfindahl index can be one that indicates that the region is dominated by only one industry, while lower values of the index indicate diversity of economic activity. Therefore, the coefficient is expected to have a negative sign if diversity has any positive bearing on the wages of the unorganised manufacturing firms. For the Herfindahl index, organised manufacturing sector employment data is collected by the Central Statistical Organisation under the Government of India, called the Annual Survey of Industries (ASI). The ASI collects data on factories that are registered under Sections 2m(i) and 2m(ii) of the Factories Act, 1948.

District GDP is also included in the study as a proxy for local demand generated at the district level. Those firms that produce for final consumption would be affected by the demand for goods and services within the region in which they are located. Higher demand would lead to greater production and thus, likely to lead to a hike in wages of workers employed in the firms. Although, the effect may not be very pronounced, the fact that local demand is an important factor for a firm's survival the effect is captured in the study. The data is taken from NITI Aayog website that provides district level data on GDP at constant

2004-05 prices for 15 states included in our study. The GDP data for Delhi, Gujarat and Jammu and Kashmir could not be found.

Firm level factors are also important in determining the wage differentials across industries. They are important to consider as the agglomeration variables included in the study only control for the industry and district level factors. However, the NSS enterprise surveys provide detailed data on the firms' characteristics, operation costs, assets and liabilities etc.

The foremost important factor that affects wages is the technology being used in the firm. In theory, technological change leads to increase in wages as newer technologies introduced in firms require more skilled labour that, in turn, leads to higher remuneration paid to them. Thus, capital intensity is expected to be positively related to wages.

A firm that is endowed with higher own fixed assets is said to be able to pay higher wages. Fixed assets include land, building, plant and machinery, transport equipment, tools and other fixed assets. A firm that has its own land or building as well as its own capital in terms of machinery would have a greater capacity to generate more production without any disruption, and therefore, be able to pay their labour more wages. This study takes the value of own fixed assets of each firm which is expected to be positively related to wages.

Lastly, labour productivity is another variable that is controlled for. Labour productivity is calculated by dividing firm's deflated value of gross value added by the number of employees in each firm. The sector specific wholesale price index for manufactured products with 2004-05 as the base year has been used to deflate gross value added.

For the sake of comparability, wages and labour productivity have been deflated using sector specific wholesale price index. This is because the concept of wages is different for an employer and employee. Since the employees are more interested in knowing their purchasing power, the consumer prices are important for them (Sidhu, 2008) while for employers it is the producer prices that is important. Since our study is based on firm level wages, we have deflated wages by the wholesale, rather than consumer price index.

Whether a firm is situated in an urban area or rural is also taken as a dummy variable. Urban wages are expected to be greater than that of rural areas. However, firms in the unorganised manufacturing sector are spread almost uniformly across urban (55 per cent) and rural (45 percent) areas in the entire country. Considering this, the rural wages may not be construed to be less than that in urban areas.

At the district level, literacy rates have been included to control for human capital effects. Since the data pertains to firms, education levels of individual labour employed in firms is not known. However, level of education is an important aspect to control for while analysing wages. Given the data constraints, the district level literacy rates are the best alternative than to neglect it completely.

Since the data is a pooled cross section, time dummies have been included in the estimations to control for time effects. The industry fixed effects are controlled for by including industry dummies, while district fixed effects are controlled for by district dummies.

To differentiate between the effects of agglomeration economies across industries, industry dummies have been interacted with the regional agglomeration measure, that is, Herfindahl index.

#### 4.2 Methodology

The data used in the study is a pooled cross section data for three time points, that is, 2000-01, 2005-06 and 2010-11. Since the cross sections (firms, in this case) differ across different years, the panel data estimation cannot be employed here. We estimate the equations using two-stage least squares (2SLS) methodology after correcting for the variance-covariance error matrix for heteroscedasticity.

As explained in the literature review section, wages and labour productivity are inter-related; thus, including labour productivity in the OLS equation would lead to endogeneity bias. Therefore, in the first stage, labour productivity is regressed on all exogenous variables in the system and the estimated value of labour productivity is then used as an instrument in the wage regression.

It is important to state that the wage equation that the study estimates is not a Mincerian type equation because the dataset (NSS Enterprise Survey) used here is a firm level data. The personal characteristics of individuals employed therein are not provided in the NSS enterprise survey, therefore, the estimations in the study would carry this limitation.

The final equation estimated in the study is given below:

$$\begin{aligned}
 LWAGEPC_{it} = & \phi_1 + \phi_2 LogLP_{it} + \phi_3 KI_{it} + \phi_4 LOGASSET_{it} + \phi_5 LQ_{dt} + \phi_6 ORG_{dt} \\
 & + \phi_7 UNORG_{dt} + \phi_8 urban + \phi_9 LITERACY_{dt} + \phi_{11} Year05_i + \phi_{12} Year10_i \\
 & + \delta_{d=district} Districtdum + \lambda_{j=NIC2} Industry_i \text{ --- --- --- (1)}
 \end{aligned}$$

where, *LogLP* is the estimated value of labour productivity using the following equation and the exogenous variables from equation 1 above:

$$\begin{aligned} \text{LogLP}_{it} = & \sigma_0 + \sigma_1 \text{LQ}_{dt} + \sigma_2 \text{ORG}_{dt} + \sigma_3 \text{UNORG}_{dt} + \sigma_6 \text{LWAGEPC}_{it} \\ & + \sigma_7 \text{OAME}_{it} + \sigma_8 \text{KI}_{it} + \sigma_9 \text{LITERACY}_{dt} + \sigma_{10} \text{DEP}_{dt} + \sigma_{11} \text{CRE}_{dt} \\ & + \sigma_{12} \text{TEL}_{State,t} + \alpha_{d=district} \text{Districtdum}_{+i} + \lambda_{j=NIC2} \text{Industry}_t \text{-----} (2) \end{aligned}$$

In equation 1, dependent variable LWAGEPC is wage per capita of firm 'i' and time 't'. LogLP is the log of labour productivity; KI is capital intensity calculated as the ratio of total capital of the firm to total labour employed; LQ is location quotient for the unorganised manufacturing sector at district 'd', NIC 3-digit level; ORG is the Herfindahl index of diversity for organised manufacturing sector; UNORG is the district level industrial diversity in unorganised manufacturing sector; *urban* is the dummy variable with value one for the firm that is located in an urban area, and zero for firms in rural areas. LDISTGDP is the log of district GDP at time 't'. The social infrastructure variable is represented by LITERACY that is the district wise literacy rates for different periods in the estimation.

In equation 2, the district level financial infrastructure in terms of bank deposits (DEP) and the outstanding credit (CRE) of the scheduled commercial banks have been included to capture their effect on the labour productivity. The other variables at firm and district levels are already explained. Table 3 gives a summary description of the variables that are included in the empirical estimation with their data sources as well as the expected signs.

TABLE 3  
DESCRIPTION OF VARIABLES USED IN EMPIRICAL ESTIMATIONS

Variables	Description	Data Source	Expected Sign
LogLP	Log Labour Productivity	NSS Unorganised Manufacturing Enterprise Survey (UMES)	Positive
LQ	Location Quotient	NSS UMES	Positive
ORG	Organised Employment	Annual Survey of Industries (ASI)	Negative
UNORG	Unorganised Employment	NSS UMES	Negative
LDISTGDP	Log District GDP	NITI Aayog	Positive
LOGASSET	Log of Owned Assets	NSS UMES	Positive
KI	Log Capital-Labour Ratio	NSS UMES	Positive
urban	Urban Dummy	NSS UMES	Positive

## 5 EMPIRICAL RESULTS

The results are based on estimations from equation 1 using 2-SLS regression methodology and the results are presented in Table 4. As explained earlier, the inter-relationship between wages and labour productivity leads to an endogeneity, and thus, using OLS would lead to a bias.

**Labour productivity** of a firm has a significantly positive coefficient. It indicates that firms with higher labour productivity are able to pay their labour higher wages. Although, there has been a growing gap between the levels of labour productivity and wages across the time period considered as observed in the literature, the impact of the former on the latter seems to be quite strong empirically.

The firm's own ability to pay higher wages in terms of the **owned assets** it possesses has a positive coefficient which is statistically significant. Therefore, a firm that has its own assets in the form of land, building, machines etc. has ability to pay to higher wages to its labour.

**Capital intensity** has a negative coefficient that implies that firms with capital intensive production techniques are not rewarding their labour with higher wages. This means either the technology being used does not entail higher skilled labour to be able to adapt to it, or given the nature of the unorganised sector the firm is not accountable to pay them higher wages owing to the abundant labour supply. This may also imply that higher capital intensity leads to a fall in demand for additional labour, thus pulling wages down. In the wake of the unorganised manufacturing sector being out of the purview of any labour regulations, wages tend to be even more volatile.

TABLE 4  
ESTIMATION RESULTS FOR TWO-SLS REGRESSION

Dep. Variable: Log Firm Level Wages Per Capita	
Independent Variable	Coefficients
Log Labour Productivity	1.4*
Log Capital Intensity	-1.3*
Log Owned Assets	1.2*
Urban Dummy	-0.11*
Location Quotient	0.0005*
Organised Sector	-0.10
Literacy	0.01*
Year 2005	-0.50*
Year 2010	-2.5*
Constant	-7.2*
District Dummies	Yes
Individual Industry Dummies	Yes
Organised Sector Interacted Dummies	Yes
No. of Observations	57933
R-Squared	0.83

Note: Symbols \*, \*\* and # denote 1%, 2% and 5% levels of significance, respectively.

Firms located in **urban areas** are also found to be paying lesser wages per capita than the firms in rural areas. This corresponds to the observation in the earlier sections that the rural wages in the recent years have come at par with urban wages in the unorganised manufacturing sector.

The **diversity of larger industries** within a district has helped firms in unorganised manufacturing to fare better in terms of wages. Most of the industries have shown a negative coefficient in the interaction terms, such as food products, beverages, coke and petroleum, pharmaceuticals, rubber and plastic, basic metals, fabricated metals, electronic and electrical, transport and other manufacturing industries. The agglomeration economies arising from industrial diversity has enabled smaller firms in unorganised manufacturing sector to experience pecuniary gains.

**District GDP** has a positive and statistically significant effect on firm wages. Thus, local demand represented by the variable has an important bearing on the firms' wages in unorganised manufacturing sector.

## 6 CONCLUSION

The study has analysed the effects of industrial agglomeration on firm level wages in the unorganised manufacturing sector. An instrument variable estimation using two-stage least squares has been used in the study as the inter-relationship between wages and labour productivity is a source of endogeneity.

Wages of hired workers in the Directory manufacturing enterprises (DMEs) and Non-Directory enterprises (NDMEs), for which this study has been done, are positively affected by the agglomeration economies in a number of industries. Industrial diversity has shown a positive effect for a number of industries.

Given that industrial agglomeration has a positive effect on the wages in many industries, a targeted approach towards enabling smaller firms to set up establishments in existing agglomerations should be initiated. The National Manufacturing Policy (NMP) launched in 2011 has envisaged National Investment and Manufacturing Zones (NIMZs) that will catalyse the manufacturing growth by directing investments to provide world class infrastructure for creating manufacturing hubs across the country. The effort would help the manufacturing sector to realise the full benefits of agglomeration.

Formation of clusters, however, is based on regional dynamics such as local skills, culture, geographical influences such as climate etc., apart from economic factors such as infrastructure and market demand. Thus, the state governments should understand the

importance of region specific cluster formation and take dynamic initiatives in terms of providing financial and technical assistance to the industries to develop therein. Till now, only Andhra Pradesh, Gujarat, Kerala, Madhya Pradesh and Tamil Nadu have taken cluster development initiatives. There is further need for other states to form policies to enhance cluster development in their regions. The proposed NIMZs would be step in this direction.

However, industrial agglomerations have been associated with the associated congestion costs, rise in cost of living and also income inequality (Tripathi, 2013). Therefore, a balance between the proliferation of firms in a region and a sustainable infrastructure to accommodate them should be borne in mind while formulating policies for the manufacturing sector as a whole.

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## **Agriculture Dynamics in Response to Climate Change in Rajasthan**

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### ABSTRACT

The foremost environmental challenge faced by the world is climate change. All the sectors and societies of world are vulnerable to climate change. But, the developing regions which are scarce on resources and the sectors like agriculture, which are primarily dependent on climate, are among the most vulnerable group. Rajasthan, largest state of India is among the resource scarce regions, although the state is house of many important minerals but lacks in basic resources like fertile land and water resources. The agriculture practiced in the state was mainly subsistence due to lack of resources required to practice agriculture. But, in recent times with advancing technology, canal irrigation and land improvement programmes, the state has achieved better productivity in agriculture sector. The development of agriculture in Rajasthan now faces the challenge of climatic variability. Therefore, in order to maintain the pace of agriculture development in Rajasthan it is important to prioritize the planning, and the regions which are most vulnerable need urgent planning intervention.

Keywords: Climate variability; Cropping Pattern; Farm Management; Crop Efficiency

### 1. INTRODUCTION

Geographically, Rajasthan being the largest state of India has diversity in the agriculture which is mainly the result of variations in resource endowments, climate, topography and historical, institutional and socio economic factors and the agriculture pattern varies with different agro-

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climatic regions across the state. Rajasthan is among the leading producers of mustard, pearl millet, cumin, coriander and fenugreek (Swain, Kalamkar and Ojha, 2012) which shows the importance of the state in Indian agriculture. The agriculture practices in Rajasthan are very tough due to the harsh dry climate found in majority of the state (Chand and Raju, 2009). The agriculture area has increased manifolds in the state along with production and productivity. The agriculture in the state has also been changing its forms and pattern over last two decades but still the agriculture has not attained the efficiency required for its stability. The state's economy has undergone a considerable transformation in the recent past with growth of manufacturing and services sectors. However, agriculture, with 64.2 per cent of total rural working population is directly dependent on agriculture as cultivators and agriculture labours (Census of India, 2011), continues to play an important role. Agriculture, including animal husbandry, contributed just 24.59 per cent to the State Gross Domestic Product (GDP) during 2012-13 (Directorate of Economics and Statistics, 2013). Growth of the agriculture sector, therefore, has an important impact on the lives of people dependent on agriculture. According to the Planning Department (2012), the challenges faced by the agriculture sector in Rajasthan are increasing gap between demand and availability of water, scanty and uncertain rainfall, deteriorating quality of land and underground water, low value agriculture, large gap between potential and realized yield of crops and high inter-year variation in productivity, low share of vegetable and fruit crops, seed spices and medicinal plants, etc. The vulnerability of agriculture sector increases with changing environmental and socio-economic conditions (Singh, 2000). The low literacy of 61.4 per cent (Census of India, 2011) found among the rural community of Rajasthan is the foremost social reasons for agriculture vulnerability. Agriculture in Rajasthan faces land scarcity not only due to unfavourable topography but also due to competition from industrial sector. The heavy dependence of agriculture in Rajasthan on monsoon rainfall makes it more vulnerable towards the phenomenon of climate change (Singh, 1994; Singh and Kumar, 2013). The rainfall pattern varies for different regions of Rajasthan, similarly the variations in climate are not found uniform across the state and, therefore, single contingency plan for agriculture sustainability cannot be formulated for whole state and a more detailed region wise plan is the need of hour.

## 2. STUDY AREA

The State of Rajasthan lies between 23°04' N to 30°11' N and 69°29' to 78°17' E, occupying 342,239 km<sup>2</sup> and 10.41 per cent of the land area of the country. It is the largest state in India and the one with the highest proportion of land occupied by desert. Rajasthan State has four

major physiographic regions, viz. the western desert (Thar Desert), the Aravalli hills, the eastern plains and the south-eastern plateau (Hadoti Plateau). About 62 per cent of the state area consists of sandy plains, which is why it is known as the Desert State of India. The Aravalli hills running diagonally across the state form the geomorphic and climatic boundary of the desert in the east. The western part merges into the Pakistan desert. The Aravalli Range is the major water divide in the state. The area in the east is well drained by several integrated drainage systems, whereas that in the west has only one, the Luni drainage system. The climate is characterized by low rainfall with erratic distribution, extremes of diurnal and annual temperatures, low humidity and high wind velocity. The arid climate has marked variations in diurnal and seasonal ranges of temperature, characteristic of warm-dry continental climates. During summer (March to June), the maximum temperature generally varies between 40°C and 49°C. Night temperatures decrease considerably, to 20°C–29°C. January is the coldest month. During winter (December to February), minimum temperatures may fall to –2°C at night. Occasional secondary Western disturbances, which cross mostly western, northern and eastern Rajasthan during the winter months, cause light rainfall and increased wind speeds which result in a wind-chill effect. The average annual rainfall ranges from less than 100 to 400 mm. The state is divided in 10 agro-climatic zones (TERI, 2010) (Figure 1).

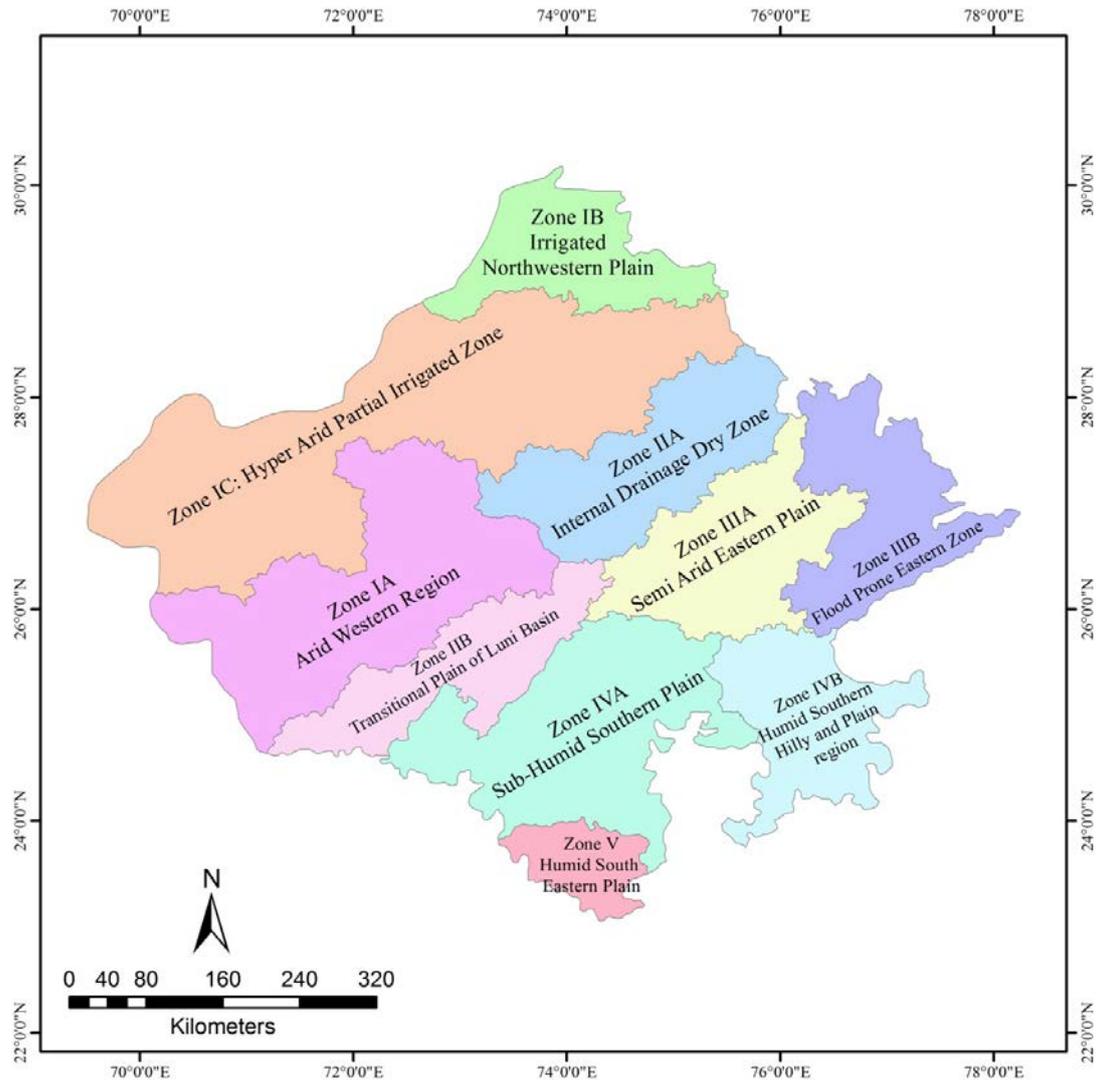


Figure 1: Agro-climatic Divisions of Rajasthan

### 3. RESEARCH METHODOLOGY

The study has used secondary database which includes historical data of 60 years from 1951 to 2010 of WMO standard in respect of rainfall, maximum temperature, minimum temperature and rainy days from India Meteorological Department (IMD). The land use/ cover data has been extracted from satellite images acquired by Indian Remote Sensing Satellites available with National Remote Sensing Agency (NRSA), Hyderabad available at BHUVAN open Data Portal. The cartosat image has also been acquired from BHUVAN. Data on food production growth rate has been taken from District Agriculture Statistics Handbook. Information about Ground water position has been sourced from Ground Water Commission. Data related to poverty, per capita income and income source has been taken from website of Government of

Rajasthan. The climate variability is analyzed on both temporal and spatial scales. Moving averages has been used to determine the trend of climatic parameters over past 60 years. The spatial change in climate parameters has been deduced through combination of interpolation and change detection technique using GIS software. Similarly, the shifts in climate regions as propounded by Thornthwaite are determined using the same set of software. The database has also been represented and analyzed using tables, graphs and charts. Techniques like regression and correlation has also been used wherever necessary. For such analysis SPSS software has been used.

#### 4. ANALYSIS AND FINDINGS

##### *4.1 Climate Change*

With an overall rise in temperature over the region and changing precipitation trends the humidity provinces as defined by Thornthwaite have shifted eastward. The arid climate zone during 1951-1980 consisted of the western region along with some pockets in the eastern as well as the southern part of Rajasthan. The region along the Aravali was in the semi-arid zone. The southern and south-eastern part of Rajasthan consisted of the sub-humid zone. The climate zones shifted in during 1981-2010 compared to 1951-1980. The arid zone engulfed the semi-arid regions of Jalore, Pali and sub-humid zone of Sirohi. The north-western part along with the south-western part now lies in the semi-arid region. The main reason behind the shift is attributed to advent of canal irrigation in north-western part of the state. The sub-humid region extended along the Aravali range in the north part (Figure 2).

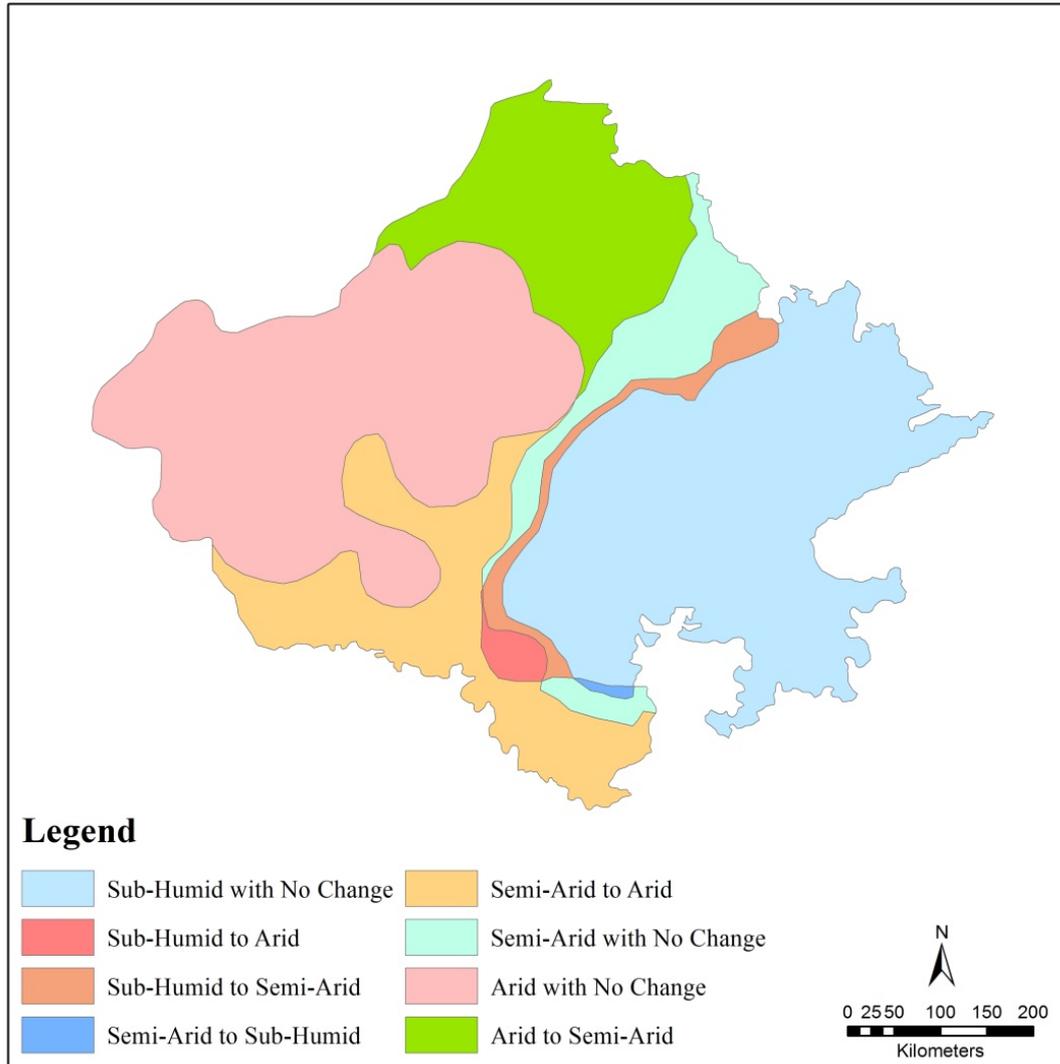


Figure 2: Change in Climate Zones based on Thornthwaite (1948)

The region has experienced changes in moisture index, but the changes are not homogenous all over the region. Increase in aridity i.e. fall in index values have been noticed over major part of the state whereas, the north-western part of the state has experienced decrease in aridity. The increase in aridity ranges from a maximum of 15 points. The increase in aridity is mainly concentrated in the eastern part of the region. The increase is prominent in the Dhaulpur. The increase in aridity is also observed in the Hadoti region and the Dungarpur district. The decrease in aridity has also been observed in the districts of Nagaur, Sikar, Jhunjhunu and northern part of Jodhpur along with Ganganagar, Hanumangarh and Bikaner. The region along the Aravali in the western side has experienced no change in the moisture index (Figure 3).

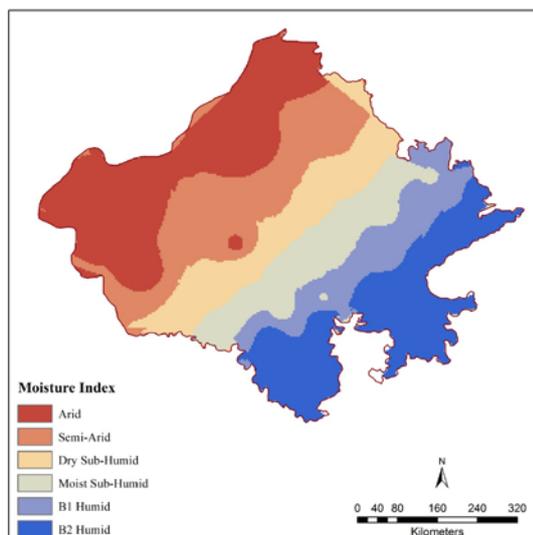


Figure 3(a): Thornthwaite's Humidity Provinces during 1951-2010 (Based on Thornthwaite (1948))

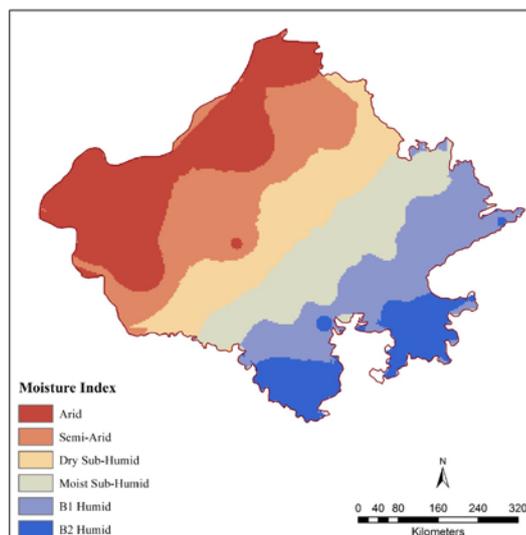


Figure 3(b): Thornthwaite's Humidity Provinces during 1981-2010 (Based on Thornthwaite (1948))

#### 4.2 Trend Productivity in Agriculture

The area, production and productivity of agriculture in Rajasthan showed a continuous rise over last four decades and the kharif crops maintain a plateau in majority of agro-climatic zones after mid 1970's (Chand, Garg and Pandey 2009). The rabi crops on the other side are showing an ever increasing trend of area under cultivation. The first district wise analysis of performance of agriculture covering whole country was attempted by Bhalla and Alagh (1979). This was a pioneering work which not only prepared estimates of productivity but also provided detailed analysis of agriculture growth at disaggregates level of crops. This analysis covered the period upto 1970-73. The second major attempt on district level analysis of agricultural productivity at national level was made by Bhalla and Singh (2001) which extends to early 1990s. Lot of changes have been experienced in Indian agriculture after early 1990s. These changes have influenced different parts of the country in different ways (Chand et. al. 2007).

It has been observed that productivity of major kharif crops has shown decline from 1951-60 to 2001-10. Productivity of kharif pulses have declined invariably across the state, with sharp decline in IIB (2008.53 to 853.97), IVA (1056.16 to 327.20) and IV (2121.13 to 16.10). Besides, productivity of Maize have also shown a downward trend in almost all region, exception being IVA, IV B and V, which have registered a quite decent rise in productivity owing to suitable physical conditions of the region. Pearl Millet is the only crop registering growth in productivity in IB, IIA, IIB and IIIA. Productivity in IIIB has doubled between 1951-60 to 2001-10. Region wise trends show that productivity of all major crops has declined in IA

and IC. In IVB and V, only productivity of Maize crop has increased significantly. In IIB and IIIA, productivity of Sorghum and Pearl Millet has increased (Table 1).

TABLE 1  
CROP EFFICIENCY OF MAJOR KHARIF CROPS

	Sorghum		Pearl Millet		Maize		Kharif Pulses	
	1951-60	2001-10	1951-60	2001-10	1951-60	2001-10	1951-60	2001-10
IA	103.76	94.68	3220.17	2566.34	5.94	0.16	218.53	132.99
IB	599.33	0.83	965.46	1175.03	47.89	0.45	65.73	23.45
IC	65.63	13.52	1664.33	1215.42	0.24	0.00	184.64	46.78
IIA	488.23	179.38	3063.18	5016.59	15.93	1.15	231.47	238.40
IIB	680.71	689.81	2467.51	3106.73	277.36	212.27	2008.53	853.97
IIIA	1460.78	1509.76	2337.88	5019.76	863.06	383.10	517.48	216.19
IIIB	1726.67	1251.15	5073.12	12586.15	229.95	145.20	338.40	333.19
IVA	620.12	740.73	516.63	185.71	4889.45	6148.17	1056.16	327.20
IVB	78.28	33.53	41.50	4.96	3283.45	4529.46	2124.13	16.10
V	9125.69	853.26	122.97	70.74	1032.52	1893.89	493.88	157.97

Source: Calculated by researcher based on data from Department of Agriculture, Jaipur (IA – Arid Western Region; IB – Irrigated Northwestern Plain ;IC- Hper Arid Partial Irrigated Zone ; IIA – Internal Drainage Dry Zone ; IIB - Transitional Plain of Luni Basin ; IIIA – Semi Arid Eastern Plain ; IIIB – Flood Prone Eastern Zone; IVA – Sub-Humid Southern Plain; IVB – Humid SouthernHilly and Plain Region ; V – Humid South Eastern Plain) (based on formula of Sapre and Deshpande, 1964)

In zone IA and IV B have witnessed marginal decline in productivity of all major rabi crops. A marked change has been experienced in Indian agriculture after early 1990s. A decrease in productivity of Wheat, Gram and Mustard is noticed in zone IIA, IIIA and IVA (Table 2).

TABLE 2  
CROP EFFICIENCY OF MAJOR RABI CROPS

	Wheat		Barley		Gram		Mustard	
	1951-60	2001-10	1951-60	2001-10	1951-60	2001-10	1951-60	2001-10
IA	91.15	85.66	113.44	107.91	118.94	90.50	135.17	106.01
IB	103.68	120.81	55.97	99.16	122.40	58.73	53.12	111.88
IC	90.67	94.97	64.29	87.06	104.51	70.53	133.02	83.87
IIA	100.72	108.22	128.48	103.12	58.83	128.64	60.09	99.40
IIB	86.17	66.72	100.27	90.76	65.18	92.38	74.00	88.34
IIIA	107.64	101.24	101.38	102.80	97.10	90.53	97.25	76.99
IIIB	124.20	122.92	102.87	110.10	136.43	125.48	58.33	108.89
IVA	115.37	101.43	107.50	99.75	82.29	100.33	117.27	102.54
IVB	95.19	81.15	109.62	93.75	120.73	114.51	137.31	105.31
V	85.21	116.88	116.17	105.59	93.59	128.38	134.45	116.78

Source: Calculated by researcher based on data from Department of Agriculture, Jaipur

(IA – Arid Western Region; IB – Irrigated Northwestern Plain ;IC- Hper Arid Partial Irrigated Zone ; IIA – Internal Drainage Dry Zone ; IIB - Transitional Plain of Luni Basin ; IIIA – Semi Arid Eastern Plain ; IIIB – Flood Prone Eastern Zone; IVA – Sub-Humid Southern Plain; IVB – Humid Southern Hilly and Plain Region ; V – Humid South Eastern Plain) (based on formula of Sapre and Deshpande, 1964)

### 4.3 Agriculture Pattern

#### 4.3.1 Crop Combination

It is very uncommon that a crop is cultivated in absolute isolation. Monoculture is rarely being practiced in Rajasthan. Crops are grown in rotation to maintain the fertility of soil, to judiciously use the scarce water resource and to efficiently utilize the farm labour. Crops are also grown in association because they are supplementary to each other. Physical, economic and cultural determinants generally operate in combination in a region and they influence the crop distribution, the production associations are necessarily dependant on them (Singh and Dhillon 1976). The crop combination indices give the understanding about changing crop combinations in the region and also provide knowledge about the existing crop combinations. With crop combination the suitability and consistency of cropping pattern can be evaluated in the context of

the role of local environment. With development of better agriculture infrastructure, new varieties of crops can be introduced in place of traditional less economic crop combinations.

The study uses Weaver (1954) crop combination formula, which is based on calculation of standard deviation. The standard deviation is calculated for net sown area under major crops having area more than 5 per cent. While calculating the standard deviations the mean used is equal to ideal per cent of area under each category viz. 100 per cent in case of monoculture, 50 per cent in case of double cropping, etc. The standard deviation calculated for different cases are compared and the case having minimum value is considered as the prevailing crop combination in the region.

The results show that the arid zone were dominated by Pearl Millet in kharif season which was replaced by Moth at the end of 20<sup>th</sup> century, but with increasing fluctuation in the monsoonal rainfall the trend has again shifted towards cultivation of pearl millet. In recent times, with the farmers are getting good remunerations from cultivation of Guar (Turkish bean) and, therefore, the zone IA and IC have shifted towards cultivation of Guar. The zone IB with good irrigation practices has opted for cotton cultivation (Figure 4).

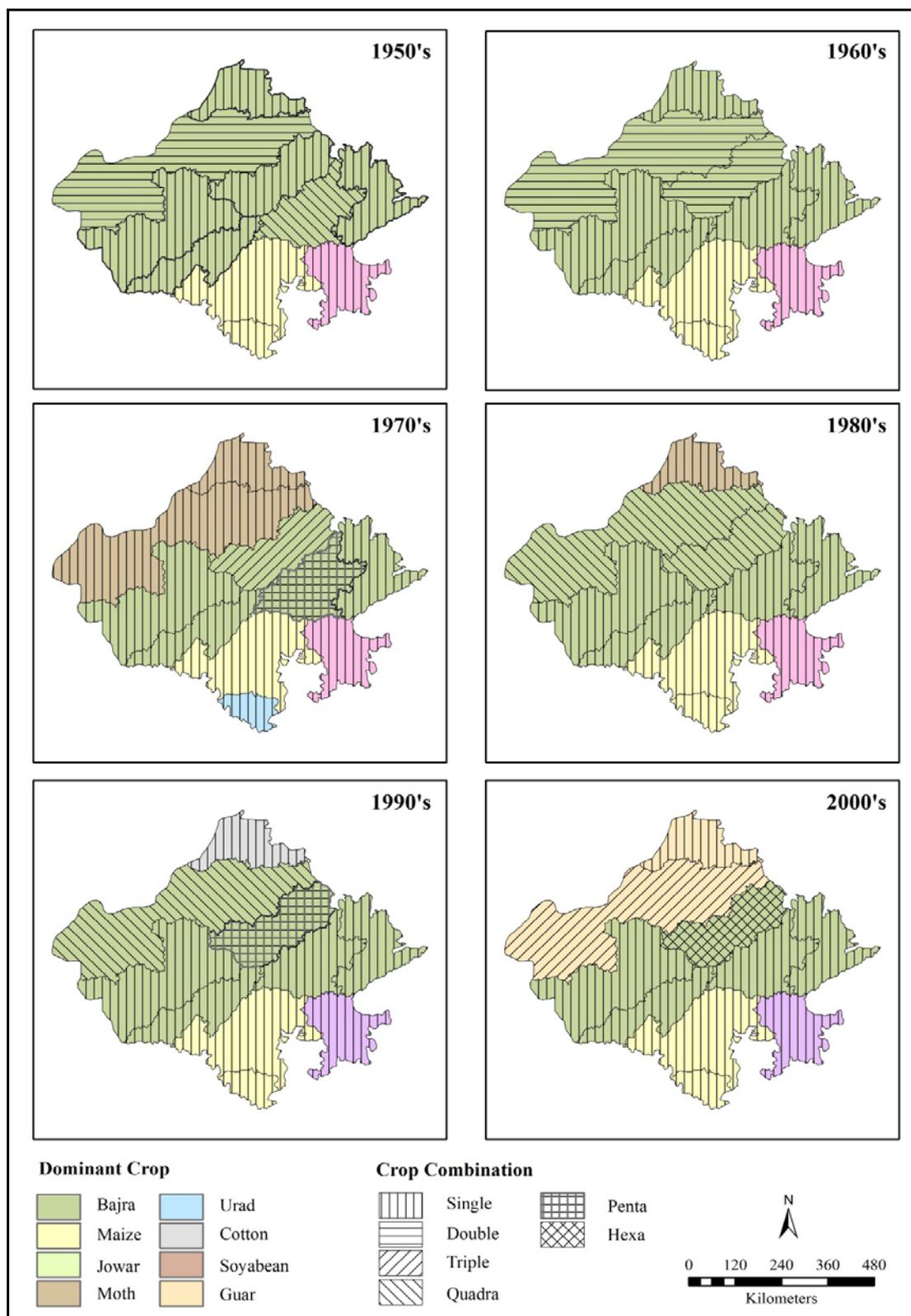


Figure 4: Decade-wise Changes in Crop Combination in Kharif Season, 1950-2010

In the southern zone, IVA maize has always been preferred for the dominant crop. The edaphic factors support the cultivation of maize in the region. The region has less variability in

rainfall; therefore, it gives it advantage for cultivation of maize. The zone V is dominated by Soyabean cultivation. The region being a plateau region and is adjacent to the state of Madhya Pradesh which is largest producer of Soyabean. The crop combination in central tract viz. zone IIA has shifted from monoculture to cultivation of six crops. The crop combination in rabi season has shifted from gram dominated cropping pattern to mustard dominated. The reason behind such a shift is increasing variability of monsoonal rainfall, as the gram crop is dependent on the monsoonal rainfall. The cultivation of mustard has also increased due to increased irrigation facilities (Figure 5). The cultivation of spices has also increased in the zone IC and zone V. Zone IC is dominated by the cultivation of Cumin, whereas the zone V dominates in cultivation of coriander. The better remunerative prices of mustard and spices have also attracted farmers to opt for cultivation of these crops.

Cowpea has also emerged as a good option in the central tract of Rajasthan. The crop combination in Rajasthan in general is dominated by Wheat-Mustard. The highest changes in crop-combination have been noticed in the central tract of Rajasthan.

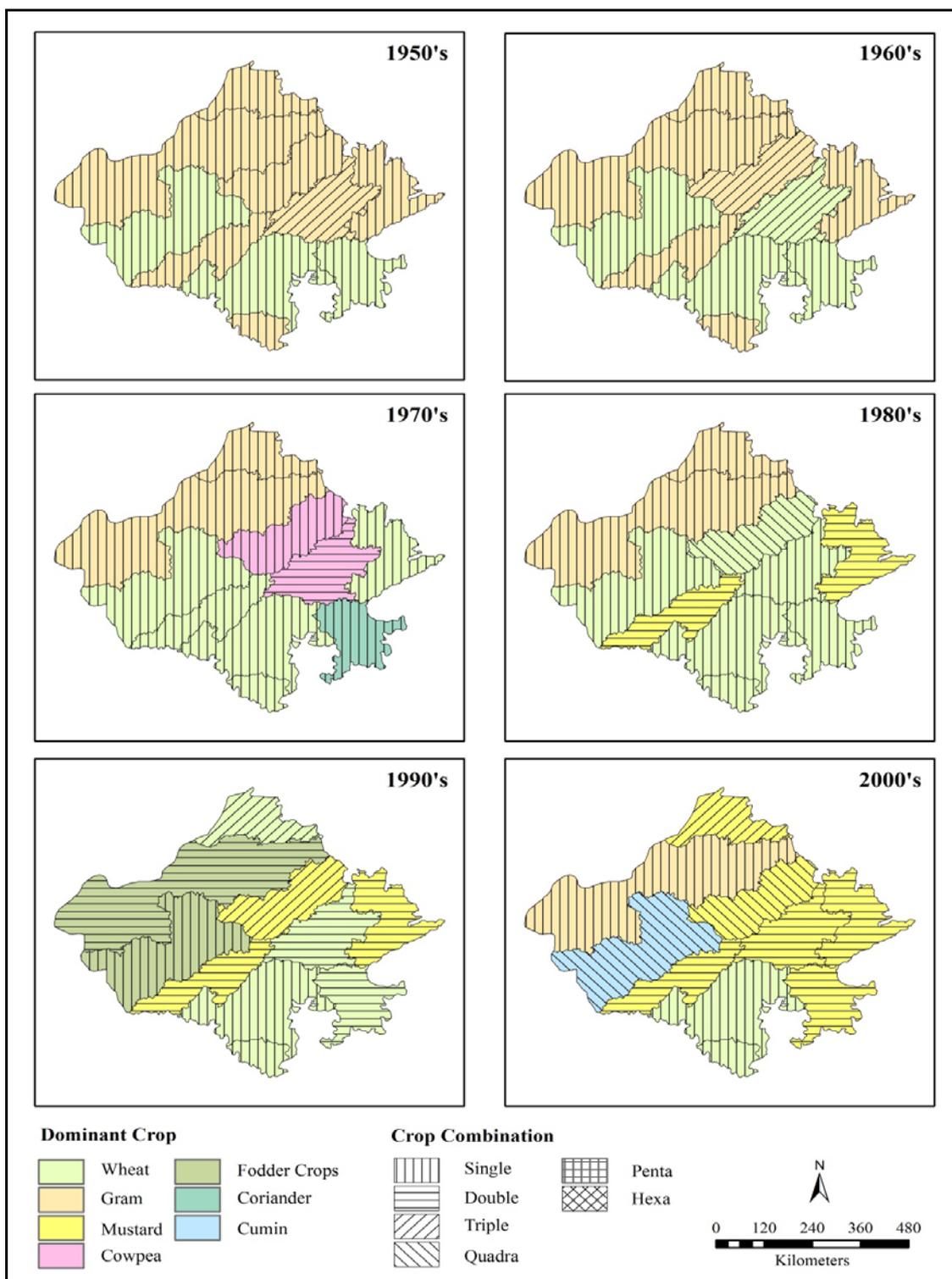


Figure 5: Decade-wise Changes in Crop Combination in Rabi Season, 1950-2010

#### 4.3.2 Crop Diversification

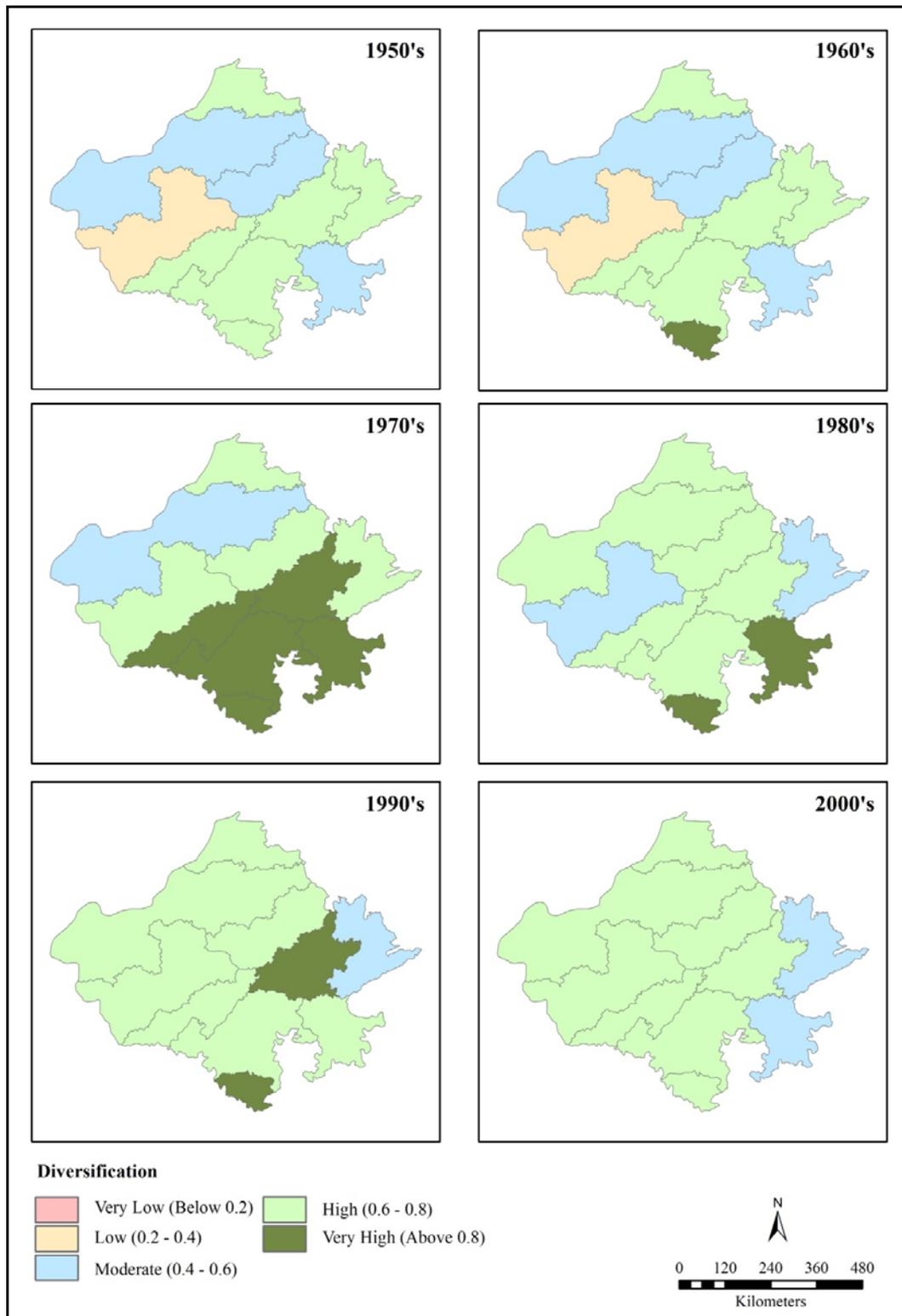
The crop diversification reduces the risk from vagaries of climate. The cultivators grow a number of crops to get some returns under adverse conditions of climate. Diversification also helps farmers to get most of their domestic requirements from their farm. The magnitude of

crop diversification shows the impact of physical, socio-economic, technological and institutional influents. The spatial pattern of agriculture diversification is significant in understanding the competition among different agriculture activities for space. When local prevailing conditions are conducive for growth of variety of crops, the farmers opt for diversification. The Gibbs and Martin (1962) Index of Diversification is useful for measuring the extent of diversification. The formula is:

$$\text{Diversification} = 1 - \frac{\epsilon x^2}{(\epsilon x)^2}$$

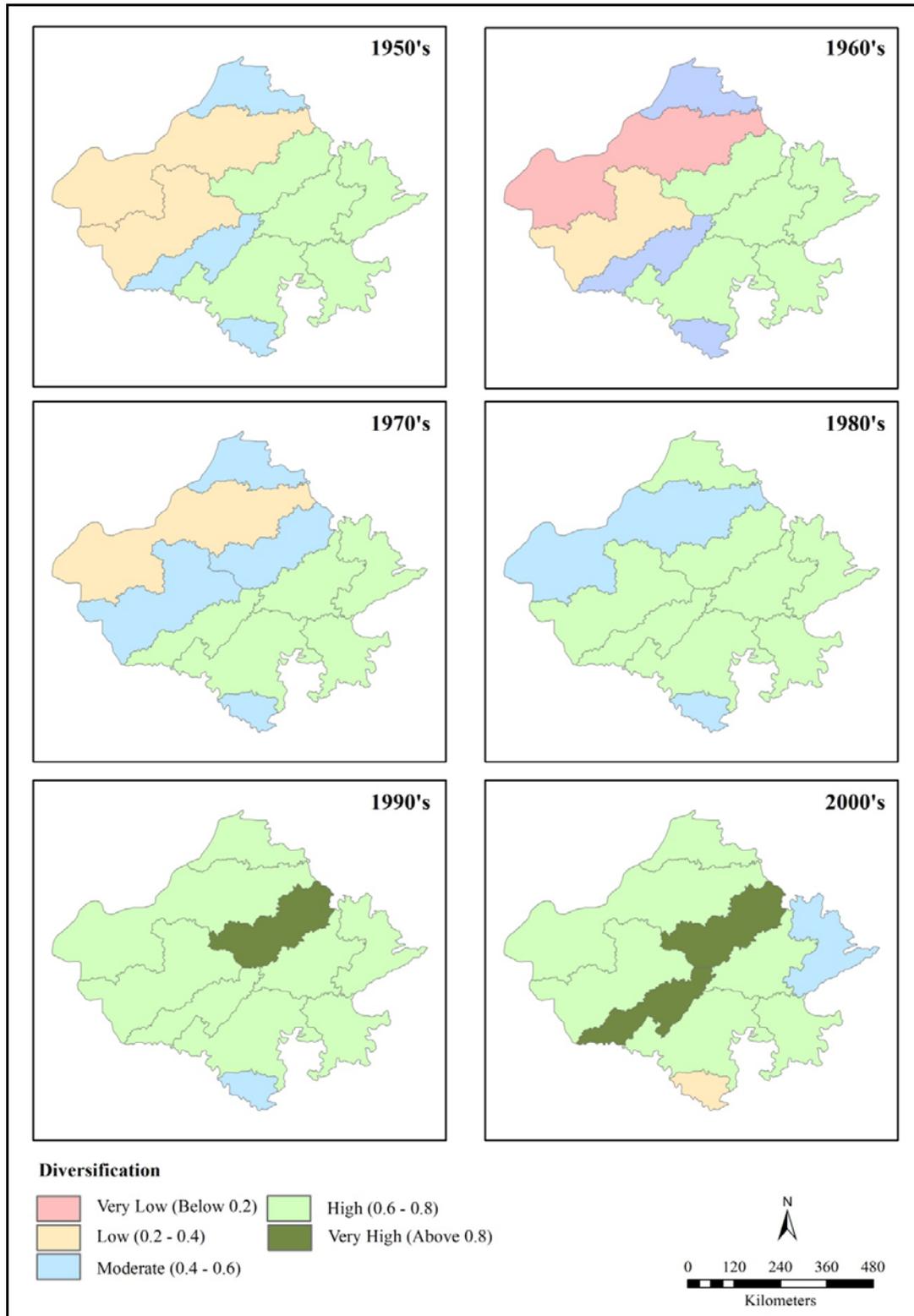
where x is the per cent of total cropped area occupied by each crop

In the kharif season, the diversification increased at the end of 20<sup>th</sup> century and has now again declined. Whereas, for the rabi season the crop diversification has continuously increased since 1950's (Figure 6 and 7).



Source: Prepared by authors based on Crop Diversification formula of Gibbs and Martin (1962)

Figure 6: Changes in Crop Diversification in Kharif Season, 1950-2010



Source: Prepared by authors based on Crop Diversification formula of Gibbs and Martin (1962)

Figure 7: Changes in Crop Diversification in Rabi Season, 1950-2010

The changes in diversification for kharif season have noticed highest in the southern part of the Rajasthan. The zone IIIB and V have shown a severe decline in diversification during the kharif season. The reason is linked with increasing fallow land for the cultivation of more remunerative rabi crops. Farmers in kharif season prefer to grow kharif crops for subsistence. The central tract of zone IIA and IIB has shown maximum increase in crop diversification during the rabi season as farmers use crop diversification as a tool to adapt to climatic variability. Improvements have also been seen in the zone IC where the crop diversification has increased from very low to high. The zone IVB has a consistency and the crop diversification has always been moderate in the region.

#### 4.3.3 Agriculture Efficiency

The agriculture efficiency is the aggregate performance of various crops in in regard to their output per hectare. For measurement of agriculture efficiency Sapre and Despande (1964) have used the following formula:

$$E_i = \frac{I_{ya} \times C_a + I_{yb} \times C_b + \dots + I_{yn} \times C_n}{C_a + C_b + \dots + C_n}$$

where,  $E_i$  = Agriculture Efficiency Index

$I_{ya}$  = Yield Index of Crop a, calculated by following formula:

$$I_{ya} = \frac{Y_c}{Y_r} \times 100$$

$C_a$  = Percentage of Cropland under crop 'a'

They have used the weighted average ranks instead of the simple average ranks. The weighted ranks are proportionate to percentage of cropland under each crop.

The overall agriculture efficiency has increased in the state for the kharif season. But, the agriculture efficiency for the rabi season has increased for the first half of investigation period and then has decreased in the later half (Figure 8 and 9). The agriculture efficiency for the rabi season is moderate or low for all the zones. The reason lies in the fact that increase in crop diversification has reduced the area under each crop and the good performance of different crops is limited to some specific zones thereby reducing the crop efficiency and thereby reducing the overall agriculture efficiency.

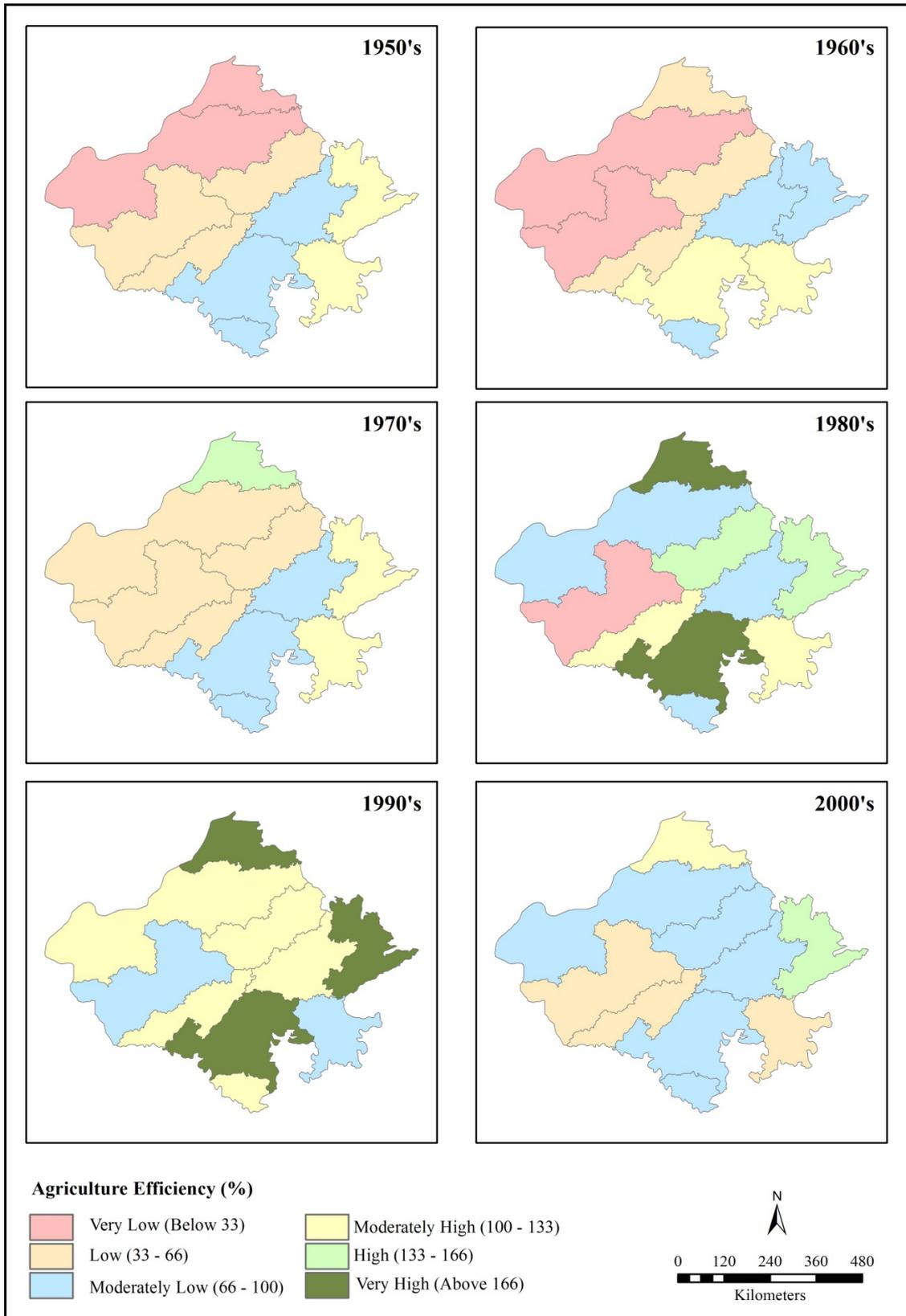


Figure 8: Decade-wise Changes in Agriculture Efficiency in Kharif Season, 1950-2010

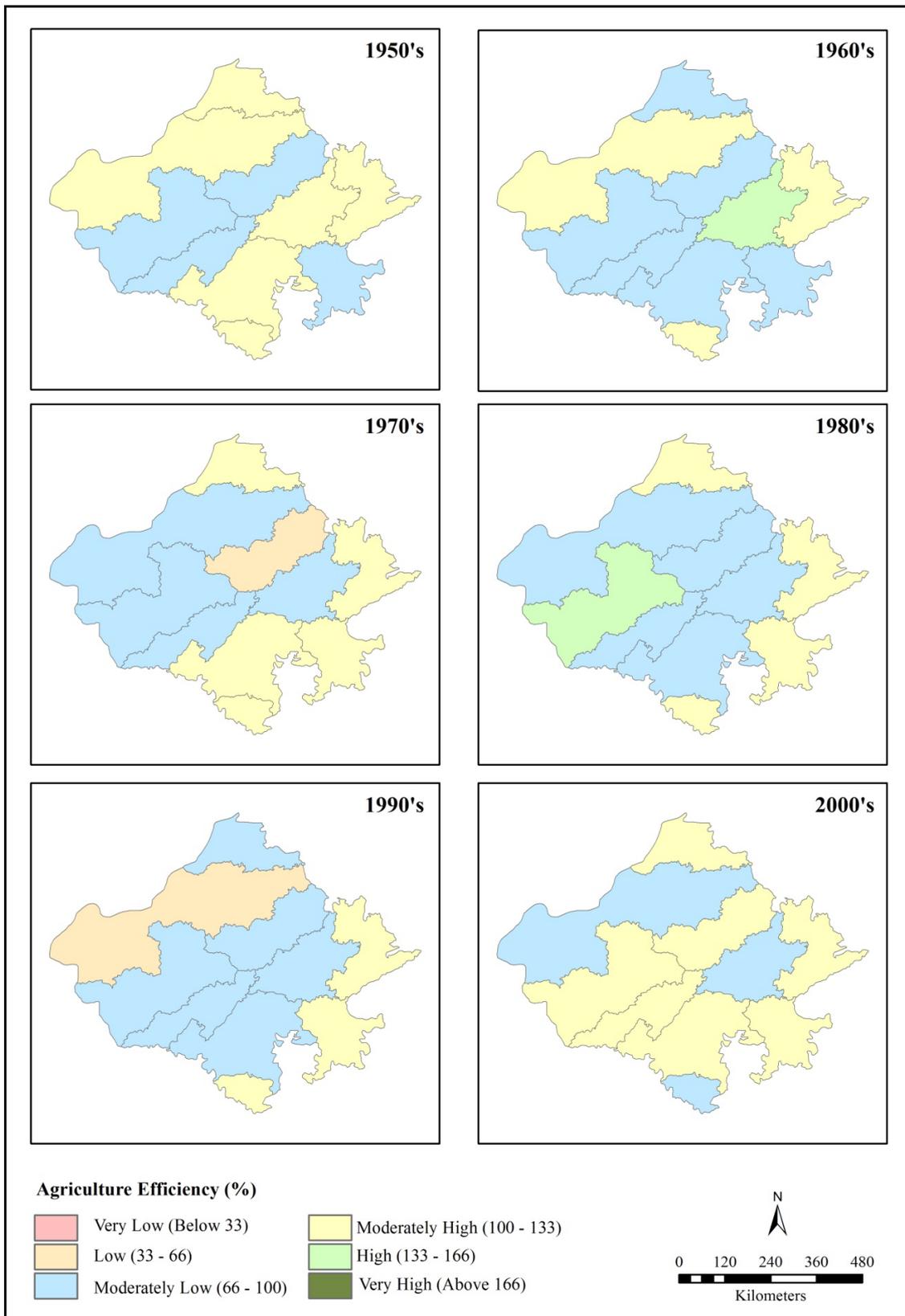


Figure 9: Decade-wise Changes in Agriculture Efficiency in Rabi Season, 1950-2010

#### *4.4 Management Strategy*

The vulnerability of these regions can be reduced through technology intervention along with revival of traditional resource conservation techniques. Following suggestions can be valuable to mitigate the impact of climate variability in the state:

##### *4.4.1 Land Resources*

Widespread land degradation is a persistent challenge in Rajasthan. The climatic variability of Rajasthan which has increased aridity has foremost impact on the soil moisture. According to the primary survey ~50 per cent of farmers believe that the climate variability is causing decline in soil moisture which has resulted into increased frequency of irrigation. The landholdings are scattered along with being small in size. The farmers are unable to provide appropriate inputs in such farms. With increase in population size and increasing trend of nuclear families, the farm size has reduced considerably. Therefore, there is urgent need of land consolidation. The scattered farms need to be consolidated in one farm so that the economic efficiency of the farms increases and farmers can adopt single strategy to improve the productivity and cope with extreme events. The soil testing facilities need to be further strengthened and soil health cards to the farmers should be provided through PPP wherein private fertilizer companies and NGOs should be involved in running mobile soil testing labs. The organic farming is also identified as good option to maintain the soil fertility and decrease the harmful effect of fertilizers in the state. The nature and extent of degradation of land varies considerably in the state requiring attention of the planners and project implementing agencies not only in arresting the degradation, but also regenerating the degrading lands. As conservation and land rehabilitation measures are highly expensive, the area for reclamation should be prioritized based on the severity of the land degradation, the nature of the extent of the problem and the proposed land use. Common lands in Rajasthan are crucial sources of livelihood for rural households. In the context of villages, the common lands provide wide-ranging contributions to village economy from food and fodder to farming systems, animal husbandry, resource conservation, and recharge of ground water. Over the years there has been a steady decline both in the extent as well as the health of common lands. The common lands need to be regenerated through involvement of local communities/user groups in planning.

##### *4.4.2 Water Resources*

Water availability is fundamental to food security. Thus, adaptations in water sector are vital for the future in order to prevent the rural exodus and guarantee food security for the population. Thus, as a policy response, Rajasthan is required to be treated as a special area from climate change perspective and comprehensive water management plans for agriculture, domestic and industrial sectors should be supported by a special economic package and investments that help in: (i) large-scale construction and renovation of rainwater harvesting systems in rural landscape and urban public buildings; (ii) augmenting water infrastructure in urban and rural systems, including water supply, water desalination, and water treatment and recycling for industrial and domestic uses; (iii) large scale infrastructure development for enhancing the groundwater replenishment; (iv) enhancing the preparedness through various inputs for drought mitigation, drought monitoring and development of early warning systems; (v) long-term insurance system to minimize the crop failure losses.

#### *4.4.3 Cropping Strategy*

The diversified cropping pattern and the presence of livestock as a major livelihood source has helped the state in managing the wide range of risks associated with dryland agriculture. The foremost strategy adopted by the farmers during climatic variability is through changing cropping pattern followed by changing occupational pattern. The varied agro-climatic conditions and soils in the state make it suitable for growing a wide range of fruits like ber, pomegranate, citrus, aonla, mango, papaya, custard-apple, etc. Besides, cultivation of seasonal vegetables; medicinal and aromatic plants like Isabgol, mehandi, senna, etc., spices like cumin, methi, coriander, chillies, ajwain, ginger, garlic, etc., betel vine; flowers like rose and jasmine and oil yielding plants like jajoba, castor, jatropha, etc., offer opportunities for much desired diversification in agriculture through a balanced use of land, water and other resources for promoting sustainable agriculture besides increasing the income of the farmers by raising high value crops.

#### *4.4.4 Farm Input Management*

The limited access to inputs and unstable climatic conditions have resulted in a predominance of low productivity, risk-minimizing and subsistence-oriented farming systems (often integrating crop and livestock production) capable of resilience (within limits) against droughts as well as able to produce a marketable surplus in years of good monsoon rainfall. Thus, there is need to strengthen the input delivery system in the state. For increasing the agricultural

productivity and production, proper management and availability of agricultural inputs including seeds are important. Distributions of improved seeds need to be improved mainly through Rajasthan Seeds Development Corporation, National Seeds Corporation in addition to other private dealers.

#### *4.4.5 Agriculture Marketing*

Adequate return on farmers produce is one of the driving forces for better agricultural growth. Better marketing channels and warehouse facilities are essential for ensuring adequate returns on agricultural output of farmers. The farmers in lack of proper marketing facilities and low market prices of products are forced to sell their products, especially, spices in the local weekly markets by themselves. Thus, there is a need of further expansion of network of warehouses in the state.

### 5. CONCLUSION

In India most of the states in the country are largely dependent on rainfall for irrigation this is more so in the case of Rajasthan. Any change in rainfall patterns poses a serious threat to agriculture, and therefore to the state's economy and food security. Agriculture is adversely affected not only by an increase or decrease in the overall amounts of rainfall, but also by shifts in the timing of the rainfall. In Rajasthan, rise in temperature has been estimated to reduce production of Pearl Millet, which is staple crop during kharif season. Changes in the soil, pests and weeds brought by climate change will also affect agriculture in Rajasthan. Large shifts in the geographical distribution of agriculture and its services along with crop combination are observed. Farming of marginal land in drier regions has become unsustainable due to water shortages, environmental degradation and social disruption. Besides ecological, technological and socio-economic drivers, climate change / variability associated frequent extreme weather events has become an important determinant of agricultural productivity in arid region of Rajasthan. With use of modern farm technology and inputs the area and productivity has continuously rose in the state. In rabi season also, change is visible in cropping patterns. Farmers are shifting their focus from cereal crops to oilseeds. Cereal crops require more water and care as compared to oilseeds, and also they earn more profit on oilseed crops. Cropping pattern is changing in both *rabi* and *kharif* season. Farmers are shifting to HYV crops which need less water and are also less dependent on rainfall and increased the area under irrigated

crops. The impact is critical especially for arid and semi-arid regions of Rajasthan where more than 70 per cent of the population depends directly or indirectly on agriculture.

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## **Legal Protection of Fashion Design in Apparels in India: A Dilemma under the Copyright and Design Law**

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### ABSTRACT

Fashion designs are protected by the copyright law in India if they qualify as artistic works that are original.<sup>2</sup> This is clear as the definition of 'artistic works' is very broad.<sup>3</sup> The High Court of Delhi in 2006 via the *Microfiber case* have made a bifurcation in the understanding of the term--'purely artistic works' and artistic works intended to be industrially applied to articles.<sup>4</sup> As the name suggests, one is inclined to understand that protection to fashion designs should be afforded by the Designs Act, 2000 as well. However, one needs to explore more particularly the underlying premise of formulating the Designs Act to the main logic behind industrial production in order to know if at all fashion designs are protected by the two laws—Copyright and Designs. The present paper seeks to provide an understanding of the extent to which works of fashion designers are protected by the Indian Legal System.

Keywords: Fashion Designs, Article, Applied to Article, Microfiber

### 1. INTRODUCTION

Fashion designs are protected by copyright if they qualify as artistic works that are original.<sup>5</sup>

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<sup>2</sup>Section 13 of the Copyright Act, 1957 states that works in which copyright subsists are as follows:

- (a) original literary, dramatic, musical and artistic works;
- (b) cinematograph films; and
- (c) sound recordings.

<sup>3</sup>Section 2(c) of the Act defines "artistic work" to mean

- (i) a painting, a sculpture, a drawing (including a diagram, map, chart or plan), an engraving or a photograph, whether or not any such work possesses artistic quality;
- (ii) work of architecture; and
- (iii) any other work of artistic craftsmanship.

<sup>4</sup>2006 (32) PTC 157 Del

<sup>5</sup>Section 13 of the Copyright Act, 1957 states that works in which copyright subsists are as follows: (a) original

This can be comfortably understood for the definition of 'artistic works' is very broad.<sup>6</sup> (Through here also, the DB of the Delhi HC in 2006 via the *Microfiber case* have made a bifurcation in the understanding of the term--'purely artistic works' and artistic works intended to be industrially applied to articles.<sup>7</sup> As the name suggests, one is inclined to understand that protection to fashion designs should be afforded by the Designs Act, 2000 as well. However, one needs to explore more, particularly the underlying premise of formulating the Designs Act to the main logic behind industrial production.

The present paper seeks to provide an understanding of the extent to which works of fashion designers are protected by the Indian Legal System. It focuses on relevant provisions of two legislations—1. The Copyright Act, 1957 and the Designs Act, 2000.

## 2. RELEVANT LEGAL PROVISIONS

### *2.1 Section 15 of Copyright Act (CRA) 1957 and Meaning of 'Designs' under Section 2(d) of Designs Act, 2000*

Section 15 of the Copyright Act is a special provision regarding copyright in designs which are registered or are capable of being registered under the Designs Act, 2000. It states that:

(1) Copyright shall not subsist under this Act in any design which is registered under the Designs Act, 2000.

(2) Copyright in any design, which is capable of being registered under the Designs Act but which has not been so registered, shall cease as soon as any article to which the design has been applied has been reproduced more than fifty times by an industrial process by the owner of the copyright or, with his license, by any other person.

Section 2(d) of the Designs Act, 2000 defines designs to mean 'only the features of shape, configuration, pattern, ornament or composition of lines or colours **applied** to any **article** whether in two dimensional or three dimensional or in both forms, by any industrial process or means, whether manual, mechanical or chemical, separate or combined, which in the finished article appeals to and is judged solely by the eye.

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literary, dramatic, musical and artistic works; (b) cinematograph films; and (c) sound recordings.

<sup>6</sup>Section 2(c) of the Copyright Act, 1957 defines 'artistic work' to mean (i) a painting, a sculpture, a drawing (including a diagram, map, chart or plan), an engraving or a photograph, whether or not any such work possesses artistic quality; (ii) work of architecture; and (iii) any other work of artistic craftsmanship.

<sup>7</sup>2006 (32) PTC 157 Del

It does not include any mode or principle of construction or anything which is in substance a mere mechanical device, and does not include any trade mark or property mark or any artistic work (last one as defined in section 2(c) of the Copyright Act, 1957)

## *2.2 How Does the Law Pan Out in Reality?*

Given the law as stated above, if a popular fashion designer with a fashion house producing a clothes line in her name creates a dress--an evening gown--for (say) Sonam Kapoor--because the latter commissioned her; what would be the nature of protection afforded to the toils of the fashion designer?

The paper seeks to examine this in detail and the surrounding aspects of legal protection to fashion designs in an attempt to highlight how the current corpus of the entire IP Law in India fails to provide adequate protection to the same.

To begin with, the design, once reduced from a mere imagination to some material form, which essentially translates into making drawings and sketches of the gown characteristic of the functioning methodology of any fashion designer, would qualify as an artistic work if it displays sufficient level of creativity and is 'original'. Copyright would automatically, without any further formality, vest in the subject matter per section 13 of the CRA, 1957. Section 15(2) may apply to them resulting in loss of copyright upon more than 50 industrial productions. Industrial production, hence should be taken as the moment when the copyright owner takes his work out of the purely artistic genre and into the industrial, thus losing his copyright.<sup>8</sup>

The designer may decide to materialise her imagination directly in three dimension and straightaway sew the gown. In that case, the three dimensional creation--the gown would also be an artistic work, a subject matter of copyright.

It is submitted that such a one off gown which is produced directly, that is to say without relying on any design document, nor is it meant to be a prototype for future productions should not be taken as a design but an artistic work. There is no question of application of section 15(2) here.

## *2.3 Problems with Interpretation-'Article' to Exist Independent of Design?*

Probing the intricacies reveals that the gown that is produced straightaway cannot be

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<sup>8</sup>Garnet Kevin, Davies Gillian and Harbottle Gwilym (ed). (2011). *Copinger and Skone James on Copyright*. Thompson Reuters Ltd.

protected as a design. This is because the definition of design under section 2(d) does clearly indicate on the presence of two things/two requirements--design is something that is *applied* to an article. The design and the article are two separate entities. In case of a gown stitched with reference to some 2D design drawings, both requirements can be said to have been fulfilled; but in case of a gown stitched just by relying on some ideas that are in mind and not reduced to any physical form, the requirements are not fulfilled. The latter is not a protectable design. It may qualify as an original artistic work though because the gown would be an embodiment of the designers idea --a 3D fixation or manifestation of the same.

*Microfibres case*, dealt with in detail in the later paras, differs in this respect—para 24 of the judgement seems to indicate that even straightaway production of the gown would make the latter eligible to be protected by the Designs Act, 2000 as a design, provided it is registered and as visual appeal. To reproduce,

*[I]t needs to be emphasized that it is not necessary that in every case a design has to be preceded by an artistic work upon which it is founded. A craftsman may create a design without first creating a basic artistic work. This may best be illustrated by a weaver who may straightaway create a design while weaving a shawl, which product could be created even without the basic artistic work.<sup>9</sup>*

Though the basic premise of the above is correct, it, in my opinion does not reflect a proper understanding of the definition of design under section 2(d) of the Designs Act, 2000 which speaks of patterns, shape or line as applied to an article.

The author however submits that there is nothing to stop the legislature from treating the directly stitched gown as a design. For that to happen, relevant changes and clarity needs to be brought to the definition of designs under section 2(d) of the Act. In the present shape, it is vague and hence subject to diverse interpretations.

### 3. EXTENT AND SCOPE OF PROTECTION UNDER COPYRIGHT LAW

The Designer would have an exclusive right over the copyrighted matter which is drawings (design document henceforth) or dress or both. No one else can reproduce the same, save with the permission of the designer.

If such a design is copied by reproducing in any material form --that includes depiction in three dimensions of a two dimensional work (to give an instance, someone

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<sup>9</sup>2006 (32) PTC 157 Del [24].

unauthorisedly using the design drawings to reproduce the gown or directly reproducing without relying on design drawings). or reproducing in two dimensions of a three dimensional work (say, making drawings and sketches of the gown) it may amount to infringement.

Additionally, the designer would have the exclusive right to store it in any medium, electronically or otherwise. So, taking pictures of the design drawings/gown, or making a video of the same is the exclusive prerogative of the creator author/artist.<sup>10</sup>

The designer artist has the exclusive right to communicate the work to the public and to issue copies of the same. However, once sold, the designer does not have any control over the movement of the gown. Meaning, if Sonam Kapoor decides to sell it or otherwise dispose it off to someone, for a higher, lower or no price, the designer would not have any say in it. This is because it would be taken as a work/copy already in circulation and the Doctrine of Exhaustion should apply in full swing.<sup>11</sup>

All these exclusive rights are indirectly contained in section 51 of the Copyright Act, 1957 which defines infringement. Even if the designer decides to licence out the rights in the fashion design to some person A, the licensee is under a legal obligation to operate only within the confines of the licence agreement. Any defiance on his part would be infringement.<sup>12</sup>

It must be emphasised however that the above said disposal on part of Sonam Kapoor in the previous example has to remain within the folds of respectability; for the artist designer retains the special right to restrain the actor or claim damages for any mutilation, distortion, modification or other act in relation to the gown, if such act is prejudicial to the honour and repute of the designer.<sup>13</sup> These are the moral rights of the authors of all works which have been recognised by Copyright Law almost globally and operate independently of the author's

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<sup>10</sup>See Copyright Act, 1957, s 14(c)(i)(A)

<sup>11</sup>See Copyright Act, 1957, ss 14(c)(i)(B) and (C)

<sup>12</sup>See Copyright Act, 1957, s 51--Copyright in a work shall be deemed to be infringed — (a) when any person, without a licence granted by the owner of the copyright or the Registrar of Copyrights under this Act or in contravention of the conditions of a licence so granted or of any condition imposed by a competent authority under this Act — (i) does anything, the exclusive right to do which is by this Act conferred upon the owner of the copyright, or (ii) permits for profit any place to be used for the communication of the work to the public where such communication constitutes an infringement of the copyright in the work, unless he was not aware and had no reasonable ground for believing that such communication to the public would be an infringement of copyright; or (b) when any person — (i) makes for sale or hire, or sells or lets for hire, or by way of trade displays or offers for sale or hire, or (ii) distributes either for the purpose of trade or to such an extent as to affect prejudicially the owner of the copyright, or (iii) by way of trade exhibits in public, or (iv) imports into India, any infringing copies of the work

<sup>13</sup>See Copyright Act, 1957, s 57(1)(b)

copyright. They exist in the author even after the work has been assigned or licensed.<sup>14</sup>

Further, if anyone wants to include the work in any cine film, he must do so with the permission of the designer. Any adaptation of the design drawings, gown which typically would involve rearranging or altering the design by tweaking the same here and there, is also the exclusive domain of the designer.<sup>15</sup>

Cases of close or colourable imitations where the later designer is 'inspired' by the former may fall within the category of infringement, of course upon adequate proof.

The scope of the exclusive right enjoyed by the designer is so vast that if someone, say Sonam Kapoor herself, adapts the dress design (for instance by adding frills or lace to the gown) to suit ones taste with the permission of the designer or the latter does it herself, no one is permitted to do in relation to even the adapted version any of the acts previously specified.<sup>16</sup>

One may note that any addition by Sonam Kapoor herself to the gown may not be taken as violation of the exclusive right of the designer as it may fall within the broad purview of the Doctrine of Fair Dealing-for the purposes of private or personal use, including research.<sup>17</sup> The author opines that any such dealing has to be read as subservient to the moral rights of the designer.

It is relevant to reiterate that the designer of the concerned gown would get protection in regard to his creation--design drawings or gown, in India, under the CRA 1956 only if the same has been first published in India or the author, at the time of making them was a citizen of India. Publication essentially means making the work available to the public by issue of copies or by communicating the work to the public.<sup>18</sup>

In case of design drawings, showing the design drawings or showcasing the stitched gown in fashion shows, exclusive exhibitions or something more discreet may be some of the ways of publishing the work or communicating it to the public. This means, if the designer commissioned by Sonam Kapoor in the given example is say Roberto Cavalli who created the gown and/or its sketches outside India, copyright shall not subsist in them in India.

However, it is not that his creations become open to random copying here in India.

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<sup>14</sup>See Copyright Act, 1957, s 57(1)

<sup>15</sup>See Copyright Act, 1957, s 14(c)(v)

<sup>16</sup>See Copyright Act, 1957, s 14(a)(vi)

<sup>17</sup>See Copyright Act, 1957, s 52(1)(a)(i)

<sup>18</sup>See Copyright Act, 1957, s 13(2)(i)

Post the passing of the International Copyright Order, subject to some exceptions, all the provisions of the CRA 1957 shall apply to a work, even if it is not first published in India and even if the creator is not Indian citizen provided the country in which the work was first published or the citizenship of the author as the case may be, is the one/belongs to one mentioned in Part I, II, III, IV or VI of the Schedule appended to the Order.

#### 4. STATUS OF KNOCKOFFS

Fashion knockoffs are imitations or copies of the original designs using usually the same material but offering to sell at a cheaper price tag. Producing such knockoffs is very easy these days because of technological advance and globalisation related exposure available to copycat designers.

The ones associated with the knockoff economy for their bread and butter literally hound the fashion shows to produce strikingly similar, mass-market versions of the latest designer outfits which become available in the showrooms for mass consumption – at a comparably nominal price.

Gone are the days of the past era when fashion magazines were rare and whatever images from fashion shows appeared in magazines were covered in thick black lines to prevent the designs being copied. Additionally, the shows were couture affairs with only a few privileged invitees getting a glimpse of the expected next season fashion trends.

In the present times, technology and consumerism rule the events with photographers and specialist correspondents going berserk with taking images and splashing them across all forms of mass and social media within seconds of release/publication.

Needless to say that knockoffs represent not only a failure on part of the law implementation agencies but also the Legislature and the Judiciary in understanding the true nature of the work and protection that it mandates. Such copying comes easy, in the first place because there is lack of clarity in the laws and also a lack of clarity with the creator on which law would apply to his work.

On the issue of vagueness surrounding fashion designs, section 15 of the CR Act, 1957 takes the lead. As reproduced above, it is a special provision regarding copyright in designs registered or capable of being registered under the Designs Act, 2000.<sup>19</sup>

Transposing the example of gown design drawings on to the said provision, it appears

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<sup>19</sup>See Copyright Act, 1957, s 15(2)

that if the design drawings are registered as a design under the Designs Act, 2000, copyright shall not subsist in the same. It needs to be questioned whether fashion designs at all qualify for protection by the Design Law. Section 2(d) of the Act states that design means something which is '*applied*' to an article by a process. Additionally, it also mentions that designs protected by the Act do not include 1) trademarks, 2) property marks and 3) artistic works of the CRA 1957.

Taking the latter first, an artistic work is not to be protected by the Designs Act because in the entire scheme of IP protection there is hardly any provision for dual protection for any work. Whether fashion designs qualify as *the* type of artistic works that are excluded from the purview of the Designs Act does not become immediately clear from the statute. One explanation has however been offered by the DB of the Delhi HC in *-microfibres case*.<sup>20</sup>

#### 5. MICROFIBRES V GIRDHAR

In the much popular case of *Microfibres v Girdhar*, both parties were engaged in the business of upholstery fabrics. The single judge held that the designs of Girdhar were a substantial reproduction of the Microfibres' artistic works. However, the Copyright protection to the same had ceased because of the applicability of section 15(2) of the CRA, 1957. They had been reproduced more than 50 times through an industrial process by Microfibre. And since, Microfibres had not sought registration under the Designs Act, the designs were unprotected by the IP regime.

Two issues that get resolved from the judgement are as follows:

1) The artistic works of section 2(c) of the Copyright Act that defines 'artistic work' has wide connotation and even extend to artistic works without any visual appeal. Only those artistic works that have a visual appeal may qualify as designs eligible for registration and protection under the Designs Act.<sup>21</sup>

2) A Design would qualify as an artistic work only if it is original. Hence artistic works of the Copyright Act and 'designs' mentioned in section 15(2) of the same Act (having a bearing on what can be protected under the Designs Act) are not synonymous terms. They have their own scope and relevance.

3) If a painting is the original artistic work in question and the same is applied to an

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<sup>20</sup>2006 (32) PTC 157 Del

<sup>21</sup>As already reproduced via the definition of designs under section 2(d) of the Designs Act, 2000

apparel, some modification is normally required while creating or reproducing it to be used as a printable design onto an article wherein the final output should have visual appeal. Here, while the painting being an original artistic work falls under Copyright protection, its derivative that is applied on an article produced industrially remains under copyright protection as an independent artistic work only till 50 units production. The moment 51st unit is produced, it (the derivative) loses Copyright protection and if the same has not been registered under the Designs Act, it becomes a 'free' design, not protected--neither under Copyright Law nor under the Designs Law.

4) Section 15 of the Copyright Act, 1957 excludes from the ambit of Copyright protection not the original artistic work --the painting upon which the design is based but the reproduced/mostly tweaked version of that original work which was created for the sole purpose of making it compatible for industrial application. That design by itself may be an artistic work provided it satisfies originality. This protection however is short lived and ceases the moment 50 articles with that design have been produced.

*[W]hen the copyright holder of an original artistic work reproduces the same in another material form, he may, or may not do so by employing an industrial process or means which may be manual mechanical or chemical separate or combined, on an article. If the reproduction of the original artistic work is done by employing an industrial process, as aforesaid, on an article, and the same results in a finished article which appeals to the eye as adjudged solely by the eye, then the features of shape, configuration, pattern, ornament or composition of lines or colours applied to the article by the industrial process constitutes a 'design', within the meaning of this expression as defined under the Designs Act.<sup>22</sup>*

*There is, therefore, a clear distinction between an original artistic work, and the design derived from it for industrial application on an article.<sup>23]</sup>*

The original painting which was used to industrially produce the designed article-apparel in this case, continues to fall within the meaning of the artistic work defined under Section 2(c) of the Copyright Act, 1957 and be entitled to the full period of copyright protection. However, the design derived therefrom for the purposes of industrial production faces the hindrance posed by sec 15 of the Copyright Act. It faces the threat of going totally

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<sup>22</sup>2006 (32) PTC 157 Del [22]

<sup>23</sup>2006 (32) PTC 157 Del [23]

unprotected, unless it is registered as a Design under the Designs Act, 2000.

## 6. JUDICIAL INTERPRETATION AND POSSIBILITY OF PROTECTION UNDER DESIGN LAW

In relation to artistic works, the law is unclear but the judicial take on the same evidences that the adaptation of the concerned artistic work --painting, for industrial application robs it of its identity and hence, if the adapted version was at all an artistic work, the same gets metamorphed into a design. The law tolerates only a limited industrial, or shall we say commercial, exploitation of the original artistic work by the application/reproduction of the said work in any other form or reproduction of copies thereof in exercise of the rights under Section 14 of the Copyright Act.<sup>24</sup>

This being the case, the design drawings of our gown do appear to be protected by the Designs Act, 2000 assuming that the application of the said features of the 2D design drawings grant a visual appeal to the gown/article and that the drawings or design document is not meant for one off production and the same is actually registered as a design under the Designs Act, 2000. The design law does not offer any protection without registration.

In such a situation, section 22 of the Designs Act would apply to the fashion knockoffs that are produced using registered design drawings. Section 22 explains piracy of registered designs<sup>25</sup> and it shall be a legal duty of the infringer to pay the registered proprietor compensation to the tune of Rs 25000 per infringement payable as contract debt.<sup>26</sup>

The requirement of design being applied to an article through a process is important. An 'article' is a manufactured object and may be of any substance – artificial or a mixture of

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<sup>24</sup>2006 (32) PTC 157 Del [30]

<sup>25</sup>Section 22 (1) of the Designs Act, 2000 provides that 'during the existence of copyright in any design it shall not be lawful for any person to-(a) for the purpose of sale to apply or cause to be applied to any article in any class of articles in which the design is registered, the design or any fraudulent or obvious imitation thereof, except with the license or written consent of the registered proprietor, or to do anything with a view to enable the design to be so applied; or (b) to import for the purposes of sale, without the consent of the registered proprietor, any article belonging to the class in which the design has been registered, and having applied to it the design or any fraudulent or obvious imitation thereof, or (c) knowing that the design or any fraudulent or obvious imitation thereof has been applied to any article in any class of articles in which the design is registered without the consent of the registered proprietor, to publish or expose or cause to be published or exposed for sale that article.'

<sup>26</sup>Section 22(2)(i) states that 'if any person acts in contravention of this section, he shall be liable for every contravention-(a) to pay to the registered proprietor of the design a sum not exceeding twenty-five thousand rupees recoverable as a contract debt, or (b) if the proprietor elects to bring a suit for the recovery of damages for any such contravention, and for an injunction against the repetition thereof, to pay such damages as may be awarded and to be restrained by injunction accordingly: Provided that the total sum recoverable in respect of any one design under clause (a) shall not exceed fifty thousand rupees: Provided further that no suit or any other proceeding for relief under this sub-section shall be instituted in any court below the court of District Judge.

artificial and natural—and include any part that is capable of being made and sold separately.<sup>27</sup>

Design refers to any pattern or ornament 'applied' to such article.

The expression 'applied to an article'<sup>28</sup> has been explained by Copinger as follows:

*“Conventionally, and on a normal reading, the terms ‘pattern’ and ‘ornament’ refer to external and mostly decorative elements applied to an article. the expressions are used for two as opposed to 3 dimensions.”*<sup>29</sup>

In case of a shape design, this is not possible because it is the 'shape' and the 'configuration' itself that result in or have a direct bearing on the article's structure or its 3D existence. In such cases, it is questionable if creating a gown out of design drawings would amount to 'applying' the design to the article (evening gown). This is because it is impossible to prise the two apart and to distinguish between the design and the article.

For section 2(d) of the Designs Act, 2000 to be applicable, it appears that the article must have an existence independent of the design. The gown in the instant case comes into existence for the first time when the cloth is cut and stitched into that form. It is the only 3D manifestation of that design. If one removes the design from the gown, then all that is left is not a gown but rags of cut fabric, which do not seem to qualify, in my understanding, as an article under the Design Law. Clearly, there is a vacuum in the way 'article' has been defined.

Also, the design drawings without being applied to any article have no use under the Industrial Designs Act 2000. They remain, at the most artistic works of the Copyright Act, 1957. They cannot be registered as a design under the 2000 Act.

## 7. OTHER CASES ON ISSUE

In *Rajesh Masrani v Tahliani Design*<sup>30</sup> the Division Bench of the Delhi High Court was provided with an opportunity to respond to some aspects highlighted above.

In the case, the Plaintiff alleged that the drawings which it made in the course of developing garments and accessories were artistic works under Section 2(i)(c) of the

<sup>27</sup>The Designs Act, 2000 s 2(a)

<sup>28</sup>Garnet Kevin, Davies Gillian and Harbottle Gwilym (ed). (2011). *Copinger and Skone James on Copyright*. Thompson Reuters Ltd. para 13-289

<sup>29</sup>Garnet Kevin, Davies Gillian and Harbottle Gwilym (ed). (2011). *Copinger and Skone James on Copyright*. Thompson Reuters Ltd. para 13-288

<sup>30</sup>*Rajesh MasranivTatunTahiliani*FAO (OS) No.393/2008

Copyright Act, 1957. The patterns printed and embroidered on the fabric were also alleged to be artistic works, as were the garments finally designed. The plaintiff also alleged infringement of copyright in these various artistic works, and a Single Judge issued an interim injunction in its favour.

### 7.1 'Artistic Works' Argument

Relying heavily on *Microfibres v Girdhar*, Masrani tried to convince the court on why protection to Tahilianis designs and garments should be denied under the CRA as an artistic work. In particular, the following para from *Microfibres* was used:

*[W]hat cannot be lost sight of is the very object with which such arrangements or works had been made. The object is to put them to industrial use. An industrial process has to be done to apply the work or configuration to the textile. It is not something which has to be framed and put on the wall or would have any utility by itself. The two important aspects are the object with which it is made (which is industrial) and its inability to stand by itself as a piece of art.<sup>31</sup> (Emphasis added)*

Relying on this paragraph, the appellant Masrani argued that the drawings and patterns created by the plaintiff company were made with the object of putting them to commercial use. Thus, even if less than 50 copies were being made, (since it was a couture line, only 20 odd replications of the design drawings had been made by Tarun T), the works in question were still being industrially produced. Therefore, the defendant argued that copyright protection should be denied.

The Court however held that 1) the works of Tarun T were artistic works under the relevant section (which effectively means that the object behind creating a certain work need not be a criteria for determining the nature of it); 2) the works were capable of being registered under the Designs Act, 2000 but 3) the Copyright Act was still applicable on the said artistic works because the same had not been reproduced more than 50 times by an industrial process. The Single judge hence had rightfully concluded that it was a case of infringement by Masrani. To reproduce --

*[I]f the design is registered under the Designs Act, the Design would lose its copyright protection under the Copyright Act. If it is a design registrable under the Designs Act but has not so been registered, the Design would continue to*

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<sup>31</sup>2006 (32) PTC 157 Del [62]

*enjoy copyright protection under the Act so long as the threshold limit of its application on an article by an industrial process for more than 50 times is reached. But once that limit is crossed, it would lose its copyright protection under the Copyright Act. This interpretation would harmonize the Copyright and the Designs Act in accordance with the legislative intent.*<sup>32</sup>

A recent case of Biba Apparels has again rocked the fashion industry and legal fraternity with similar issues.<sup>33</sup> Here, the plaintiff claimed copyright in various drawings and sketches which were created by the plaintiff for dresses being sold under the trade name/brand RITU KUMAR. The claim was that they were original, such as sleeves, front and back panels etc were delineated and coordinated with unique features.

The defendants, it was contended had been copying the same which amounted to infringement of the artistic work of Ritu Kumar. The defendant, it was alleged had been reproducing, printing, publishing, distributing, selling, offering etc prints or garments which were colourable imitation or substantial reproduction of the plaintiff's prints and garments. An injunction was hence prayed for.

The Defendants argued that since the case was covered by sec 15(2) of the Copyright Act, 1957, the said artistic works had removed themselves from the purview of the Copyright Act as they had been applied more than 50 times through an industrial process to produce apparel by the plaintiff. And since the designs were not registered under the Designs Act, 2000, they were in the public domain.

In para 26 of the judgement, the Court noted something that was already stated by the DB of Microfibres in 2006. The Court maintained that-

*Lastly, I may note that in the facts of the present case it is not as if the copyright work in itself is reprinted so to say on the dresses which are created by the defendant. If the facts were that from the copyrighted works of the plaintiff prints were created and such prints which have protection under the copyright work are as it is lifted and printed upon the dresses of the defendant, may be in such a case without saying so finally on this aspect, an issue of violation of the copyright of the work of the plaintiff under Indian Copyright Act may have arisen. However, in the facts of the present case the defendant is creating dresses or*

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<sup>32</sup>2006 (32) PTC 157 Del [46]

<sup>33</sup>*Ritika Pvt Ltd v Biba Apparels Pvt Ltd* MANU/DE/0784/2016

*creating articles by an industrial means and process by application of the design or drawing or sketch and the defendant is not as it is affixing a print taken from the copyrighted work of the plaintiff as a print on a dress created by the defendant. Issue in the present case therefore will not be a violation of a copyright of the plaintiff under the Indian Copyright Act.<sup>34</sup>*

What the court meant was that since the defendant was not lifting the prints as they were and was doing something to them to make them compatible to be industrially applied to the garment or apparel concerned, it could not be a case of copyright infringement on part of the defendant.

The author submits that this last para was totally erroneous as it contorts the only two understandings of the interplay of two laws that has till now developed through such cases. It is as follows:

Illustration I-where fashion design is created from an original artistic work by making the necessary modifications to make it compatible to industrial production.

'X' is an Original artistic work by A (X is a subject matter of copyright protection being an artistic work under section 2(1)(c)---->creatively adapted to be industrially applied to apparel by A himself resulting in 'Y'(Y may be an independent artistic work)---->articles produced more than 50 times by using this Y which is a derivative of X====>copyright extinguishes in Y and not X. This was sufficiently explained by Microfibres. This is what is meant by the Design Act, 2000 when it excludes artistic works from the definition of designs.

Illustration II-where fashion design drawings are created in the first place as suitably adapted to be applied to apparel but they are not registered under the Designs Act, 2000

'X' design is created by A (X is a subject matter of copyright protection being an artistic work under section 2(1)(c))---->industrially applied to apparel without any intermediate modification, by A himself and articles produced more than 50 times ====>copyright extinguishes in X.

If X is copied or modified by B, whether this amounts to infringement under the Copyright Act, 1957 would depend on 'when' X is copied or modified by B. If he does it

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<sup>34</sup>*Ritika Pvt Ltd v Biba Apparels Pvt Ltd* MANU/DE/0784/2016 [26]

before the limit of 50 productions is crossed by A then it would be infringement on part of B, otherwise not because of the operation of section 15(2).

Thus, the Court in *Biba Apparels case*, instead of stating what it did in para 26 above would have done better had it concentrated on just the core of section 15(2)--The design drawings/prints etc of Ritu Kumar had been applied to various fashion apparel through an industrial process more than 50 times. They were clearly out of any copyright protection. There being no copyright, there could not be a copyright infringement.

### 7.2 How Relevant is Intention?

Copinger Skone James has a different submission to make keeping 'intention' of the creator to be relevant. He maintains that design 'of' something is very different from design 'for' a thing. In the latter the design document or the model is produced as a part of producing something else--as a precursor to the article, rather than being the article itself. The question whether the design was 'for' anything other than an article depends upon the intention of the designer.<sup>35</sup>

The section of the design law as well as copyright law does not mention this in explanation, but Copinger, in relation to an analogous provision of the UK Act maintains that the state of mind of the designer at the time when he created the design document or model must be ascertained. In other words, it is that what would decide the applicability of section 15(2) of the copyright act. If the concerned work started its life as an artistic work, the end product, copyright in it should not cease even upon 50 industrial reproductions.

The author submits that intention cannot be taken as a relevant factor because it defeats the very purpose of the Designs Act and the incorporation of section 15 in the Copyright Act. If intention is given such weightage in the world of commerce, it would end up in artistic creations getting avoidable and unfair protection for a prolonged period despite being commercially exploited. A version eulogising this very ethos is explained by *Microfibres*. Contrary to Copinger, the case explains it through practical realities rather than intention as seen above.

## 8. PROLOGUE: LIMITED EDITION CREATIONS

Since the law is only so much in favour of fashion designers, the author suggests the route

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<sup>35</sup>Garnet Kevin, Davies Gillian and HarbottleGwilym (ed). (2011). *Copinger and Skone James on Copyright*. Thompson Reuters Ltd. para 13-312

of extracting optimum monetary value out of a fashion design by choosing to create limited edition articles and choosing not to register to the designs drawings under the Design Act, 2000. They may reap the benefit of copyright protection for 60 years plus life for at least 49 articles.

Additionally, the fashion designer may choose to create two versions of works, one for creative satisfaction which would remain protected as artistic work under the Copyright Act, 1957 and the other a modified version suited to be adapted for industrial/mass production. The creator may get the latter registered as a design under the Designs Act, 2000 if novelty and prior publication hurdle can be passed. However, if the modified/adapted/derivative version of the work, meant to be applied to articles through industrial productions loses out on novelty<sup>36</sup> and is not registrable under the Designs Act, 2000, revenue in the same would stand milked through the initial 49 publications.

#### REFERENCE

Garnet, K., G. Davies, and G. Harbottle. (2011). *Copinger and Skone James on Copyright*. Thompson Reuters Ltd. U.K.: Sweet & Maxwell. Accessed from <http://www.carswell.com/product-detail/copinger-skone-james-on-copyright-17th-edition/>.

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<sup>36</sup>Section 4 of the Designs Act, 2000 states that 'a design which (a) is not new or original; or of certain designs. (b) has been disclosed to the public anywhere in India or in any other country by publication in tangible Form or by use or in any other way prior to the filing date, or where applicable, the priority date of the application for registration; or (c) is not significantly distinguishable from known designs or combination of known designs; or (d) comprises or contains scandalous or obscene matter shall not be registered.'

## **Prisoners' Dignity: A Forgotten Dignity**

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### ABSTRACT

*In Re Inhuman Conditions In 1382 Prisons*, a petition before the Supreme Court, many issues concerning the rights of the prisoners were dealt with once again by the court. What had given rise to the petition was a letter dated 13 June, 2013 addressed by Justice R.C. Lahoti, a former Chief Justice of India to Hon'ble the Chief Justice of India relating to inhuman conditions prevailing in 1382 prisons in India. In particular four issues were raised by him which includes: (i) overcrowding of prisons; (ii) unnatural death of prisoners; (iii) gross inadequacy of staff and (iv) available staff being untrained or inadequately trained. By an order dated 5 July, 2013 the letter was registered as a public interest writ petition and the Registry of the Supreme Court was directed to take steps to issue notice to the appropriate authorities. On 5 February, 2016, the Supreme Court passed an order to redress the problem of over-crowding in prisons. While passing the order the court emphasizes that, "prisoners like all human beings, deserve to be treated with dignity."<sup>2</sup>

In this article an attempt is made to study the problem of overcrowding in Indian jails in light of the international human rights law and in particular the United Nations Standard Minimum Rules for Treatment of Prisoners (the Nelson Mandela Rules) to which India is a signatory. A detailed study will be done on the causes of overcrowding and its impact on the lives and dignity of prisoners. Few suggestions will be made to address the problem.

Keywords: Human Dignity, Overcrowding, Prisoners

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<sup>2</sup>*Re Inhuman Conditions In 1382 Prisons*, Writ Petition (Civil) No.406/2013.

## 1. PRISONERS HAVE THE RIGHT TO DIGNITY

In today's rights-conscious world the term 'dignity' is a very popular one. Though lacking in consensus as to its universal meaning its pervasiveness as a concept is undeniable. It has become the foundation of both international human rights law and domestic constitutional rights provisions. The Preamble to the Universal Declaration of Human Rights (UDHR) refers to the inherent dignity of all members of the human family as, "the foundation of freedom, justice and peace in the world . . . ."<sup>3</sup> . Continuing on the same line Article 1, UDHR, states, "All human beings are born free and equal in dignity and rights."<sup>4</sup>

Similarly the preambles to the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), emphasize the "equal and inalienable rights of all members of the human family . . . the inherent dignity of the human person.". Human dignity is also invoked in the preambles to the UN Convention on the Elimination of All Forms of Racial Discrimination and the UN Convention on the Elimination of All Forms of Discrimination against Women, both of which are devoted to the elimination of discrimination based on an external characteristic—race and sex. The Vienna Declaration which was the outcome of the World Conference on Human Rights in 1993 states in its preamble that "all human rights derive from the dignity and worth inherent in the human person."

Referring to the human rights of the prisoners Article 10 of the ICCPR states, "All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person." On the same vein Rule 1 of the Nelson Mandela Rules provides, "All prisoners shall be treated with the respect due to their inherent dignity and value as human beings. No prisoner shall be subjected to, and all prisoners shall be protected from, torture and other cruel, inhuman or degrading treatment or punishment, for which no circumstances whatsoever may be invoked as a justification."<sup>5</sup>

The preamble to the Constitution of India contains a solemn commitment of the People of India to protect and defend the human dignity of every person.<sup>6</sup> Thus, it is most

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<sup>3</sup> The Universal Declaration of Human Rights, Preamble available at <http://www.un.org/en/universal-declaration-human-rights/> (Accessed on June 1, 2016)

<sup>4</sup>Ibid, Article 1.

<sup>5</sup>United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) available at [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/RES/70/175](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/70/175) (Accessed on May 15, 2016)

<sup>6</sup> Constitution of India, Preamble states, "WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a 1[SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC] and to secure to all its citizens: JUSTICE, social, economic and political; LIBERTY of thought, expression, belief, faith and worship;

important to seriously deal with every threat to, or violation of, human dignity wherever they exist. It does not matter which group of people, including the prisoners, face the threat to or violation of human dignity, the consequence remains the same, human society gets hurt and its progress and development is greatly hindered besides the silent suffering of the individual victim. Treating prisoners not as objects but as the human beings, no matter how horrifying their prior actions, reflects the deep appreciation that society has for human lives.

In *Sunil Batra v. Delhi Administration* the Court asked and affirmed: “Are prisoners’ persons? Yes, of course. To answer in the negative is to convict the nation and the Constitution of dehumanization and to repudiate the world legal order, which now recognizes rights of prisoners in the International Covenant on Prisoners’ Rights to which our country has signed assent.....No prisoner can be personally subjected to deprivation not necessitated by the fact of incarceration and the sentence of court. All other freedoms belong to him – to read and write, exercise and recreation, meditation and chant, creative comforts like protection from extreme cold and heat, freedom from indignities like compulsory nudity, forced sodomy and other unbearable vulgarity, movement within the prison campus subject to requirements of discipline and security, the minimum joys of self-expression, to acquire skills and techniques and all other fundamental rights tailored to the limitations of imprisonment”.<sup>7</sup>

Through various petitions that were filed before the Supreme Court and High Courts the rights of prisoners’ were asserted and upheld by the Court – right to freedom of expression<sup>8</sup>, right against solitary confinement and use bar fetters<sup>9</sup>, right to legal aid<sup>10</sup>, right to speedy trial<sup>11</sup>, right to minimum wages<sup>12</sup>, right to compensation<sup>13</sup> etc. In the recent case, in *Re - Inhuman Conditions In 1382 Prisons*<sup>14</sup>, reiterating what it had upheld earlier the Supreme Court said that prisoners “like all human beings, deserve to be treated with dignity.”

In a similar vein the Supreme of Israel in *Academic Center of Law and Business, Human Rights Division v. Minister of Finance*, while striking down a statute that allowed

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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];...”

<sup>7</sup> (1978) 4 SCC 494

<sup>8</sup>State Of Maharashtra v Prabhakar Pandurang Sangzgiri and Anr., AIR 1966 SC 424

<sup>9</sup>Sunil Batra Etc v Delhi Administration And Ors. Etc., 1978 AIR SC 1675.

<sup>10</sup>Madhav Hayawadanrao Hoskot v State Of Maharashtra, AIR 1978 SC 1548.

<sup>11</sup>Hussainara Khatoon & Ors v Home Secretary, State Of Bihar, AIR 1979 SC 1369.

<sup>12</sup>State Of Gujarat And Anr v Hon’ble High Court Of Gujarat, 1998 CIVIL APPEAL Nos. 8443-44/83, W.P.(Crl.) Nos. 1113-1122/83 W.P.(C) No. 14150/84, W.P. (Crl.) 19/93, 494/92 C.A. No. 6125/95 AND W.P.(C) No. 12223/84

<sup>13</sup>Rudul Sah v State of Bihar and Another, AIR 1983 SC 1086.

<sup>14</sup>Supra n. 2

prisons to be managed by corporations, which according to it can adversely affect the human dignity of prisoners, observed, "The right to dignity is a right that every human being is entitled to enjoy as a human being. Admittedly, when a person enters a prison he loses his liberty and freedom of movement, as well as additional rights that are violated as a result of the imprisonment; but an inmate of a prison does not lose his constitutional right to human dignity."<sup>15</sup>

## 2. THE PROBLEM OF OVERCROWDING

Overcrowding in jails is a global phenomenon. The size of the prison population throughout the world is growing, placing an enormous financial burden on governments and at a great cost to the social cohesion of societies. It is estimated that more than 10.1 million people, including sentenced and pre-trial prisoners, were held in penal institutions worldwide in May 2011.<sup>16</sup> And internationally, there is a growing recognition that one of the key obstacles to implementing the provisions of the Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) is overcrowding in prisons.

Overcrowding is generally defined with reference to the occupancy rate and the official capacity of prisons. Using this simple formula, overcrowding refers to the situation where the number of prisoners exceeds the official prison capacity. The rate of overcrowding is defined as that part of the occupancy rate above 100 per cent.<sup>17</sup>

In India, like in many other countries, overcrowding in prisons is a serious issue which the court has been dealing with time and again. And despite several orders passed by different High Courts and the Supreme Court, the problem of overcrowding in jails continues to persist. According to the Prison Statistics of the National Crime Records Bureau 2014, overcrowding in prison is a continuing problem and in fact it has been accentuated with the passage of time. There are 1,84,386 inmates lodged in central prisons of India against the authorized capacity of 1,52,312 inmates, showing an occupancy rate of 121.1%. There are 1,79,695 inmates lodged in district prisons of India against the authorized capacity of 1,35,439 inmates, showing an occupancy rate of 132.7%. The maximum overcrowding is in

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<sup>15</sup> Barak Medina, "Constitutional limits to privatization: The Israeli Supreme Court decision to invalidate prison privatization" *I•CON* (2010), Vol. 8 No. 4, 690–713, available at <http://icon.oxfordjournals.org/content/8/4/690.full.pdf> (Accessed on June 2, 2016)

<sup>16</sup> United Nation Office on Drugs and Crime, Handbook on strategies to reduce overcrowding in prisons, pg. 7 available at [https://www.unodc.org/documents/justice-and-prison-reform/Overcrowding\\_in\\_prisons\\_Ebook.pdf](https://www.unodc.org/documents/justice-and-prison-reform/Overcrowding_in_prisons_Ebook.pdf) (Accessed on May 15, 2016)

<sup>17</sup> *Ibid*

the Union Territory of Dadra & Nagar Haveli (331.7%) followed by Chhattisgarh (258.9%) and then Delhi (221.6%).<sup>18</sup>

### 3. CAUSES OF OVERCROWDING

The main cause of overcrowding in Indian prisons is the increase in the number under-trials.<sup>19</sup> As per the Prison statistics the under-trial prisoners formed a major share of prison inmates among various types of prisoners. The percentage of under-trial and convicted prisoners to the total prisoners in various jails was reported as 67.6% and 31.4% respectively in the country during 2014. The number of under-trial prisoners increased by 1.6% in 2014 (2,82,879) over 2013 (2,78,503). Further as per statistics a total of 12,052 under-trial prisoners were lodged beyond 3 years and up to 5 years at the end of the year 2014. There were 3,479 such under-trial prisoners in Uttar Pradesh followed by Bihar (1,198), Rajasthan (1,088), Punjab (1,038), Jharkhand (839), Maharashtra (677), West Bengal (633) & Gujarat (614). The highest percentage of under-trial prisoners detained for more than three years but less than five years was reported from Jammu & Kashmir (14.4%) followed by Goa (12.0%), A&N Islands (10.3%) and Gujarat (8.2%). All under-trial inmates were detained up to 5 years in Himachal Pradesh and A&N Island during 2014. A total of 3,540 under-trials were detained in jails for 5 years or more in the country. The highest number of such under-trial prisoners were reported from Uttar Pradesh where 1,022 under-trials were lodged in various jails for over 5 years, which accounted for 28.9% of such prisoners at the national level, followed by Rajasthan (523, 14.8%) and Bihar (477, 13.5%) during 2014.<sup>20</sup>

Poverty is another important factor that contributes to the overcrowding of prisons. It is no secret that a significant number of the prisoners are poor people who cannot afford a good lawyer to defend them nor have money to pay for bail. Hence they continue to languish behind bars for economic reasons. "The prisons continue to be populated with mainly under-trials who are poor, illiterate and also form minority or fringe groups. These prisons around the country are over-crowded with basic amenities like clean drinking water and essential

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<sup>18</sup> Prison Statistics India, 2014 available at <http://ncrb.nic.in/> (Accessed on June 5, 2016)

<sup>19</sup> Under Section of the Code of Criminal Procedure, 1973, the Magistrate may authorize the detention of the accused person, otherwise than in the custody of the police, beyond the period of fifteen days, if he is satisfied that adequate grounds exist for doing so, but no Magistrate shall authorise the detention of the accused person in custody under this paragraph for a total period exceeding- (i) Ninety days, where the investigation relates to an offence punishable with death, imprisonment for life or imprisonment for a term of not less than ten years; (ii) Sixty days, where the investigation relates to any other offence, And, on the expiry of the said period of ninety days, or sixty days, as the case may be, the accused person shall be released on bail if he is prepared to and does furnish bail.

<sup>20</sup> Supra n.18

medical facilities missing. The legal aid system remains in shambles resulting in the denial of the basic right of free and fair trial to the poor prisoners. The much hyped Criminal Law Amendment 2005, which the government authorities claimed will almost empty the prisons across the country, has not brought in any major changes vis-à-vis the prison population as was claimed by the Government. Lakhs of people continue to languish behind bars mainly because they are poor.”<sup>21</sup> The lack of economic resources combined with a lack of free legal aid leaves the prisoners vulnerable to all forms of human rights violations.

Overcrowding of prisons is also attributed to illiteracy or limited education of prisoners. A total of 82,735 under-trial prisoners were illiterate and 1,19,370 were educated below class 10, out of 2,82,879 under-trials lodged in various jails in the country. These two categories have accounted for 29.2% and 42.2% respectively which taken together constitute 71.4% of the total under-trial inmates. A total of 35,202 convicts out of 1,31,157 convicts lodged in various jails in the country were reported as illiterate and 56,469 were educated below class 10<sup>th</sup> standard. These two categories accounted for 26.8% and 42.9% respectively which together constitute 69.7% of the total convicts.<sup>22</sup> Illiteracy or limited education has a direct bearing on the awareness of the prisoners of their rights. The consequence of their ignorance or little knowledge of their own rights would mean that even though the prisoners have rights they will not be assertive about them.

Another very important cause of over-crowding in prison is the apathy and inaction on the part of the police in taking up the investigation in right earnest for various reasons. Corruption at Police Station level is affecting the timely and qualitative investigation. Further, the Police Stations are understaffed and the police personnel lack motivation to act without fear or favour.<sup>23</sup> This contributes significantly to the pendency of court proceedings with the accused persons continued being kept behind bars.

#### 4. CONSEQUENCES OF OVERCROWDING

With a huge number of under trials in prison the logical consequence is overcrowding of prisons which then poses a big challenge to the prison administration in complying with

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<sup>21</sup> Human Rights Law Network, Prisoners' Rights, Volume II available at <http://www.hrln.org/hrln/prisoners-rights/1356.html> (Accessed on June 5, 2016)

<sup>22</sup> Supra n.18

<sup>23</sup> Law Commission of India, 239<sup>th</sup> Report on Expedient Investigation and Trial of Criminal Cases Against Influential Public Personalities Submitted to the Supreme Court of India in W P (C) NO. 341/2004, Virender Kumar Ohri Vs. Union of India & Others, (March, 2012) available at <http://lawcommissionofindia.nic.in/reports/report239.pdf> (Accessed on June 15, 2016)

international standards for treatment of prisoners. Over-crowding leads to gross violations human rights in prisons. In an overcrowded prison prisoners are forced to live in sub humane conditions. Overcrowding puts a huge stress on the basic amenities like proper accommodation,<sup>24</sup> Sanitation facilities<sup>25</sup>, bath rooms<sup>26</sup>, supply of water, electrification, health services, etc.

Overcrowding affects the physical and mental well-being of all prisoners, generates prisoner tension<sup>27</sup> and violence, exacerbates existing mental and physical health problems. Communicable disease like Tuberculosis thrive in an overcrowded jail. High rates of TB have been reported by Human Rights Watch in India and a study in 2008 had found that 9% of prison deaths were attributed to TB.<sup>28</sup>

Overcrowding also makes the task of monitoring inmates more difficult. It was reported that there are limited number of counsellors in Central jails in India and no counsellors in sub divisional jails.<sup>29</sup> In the absence of timely counseling many inmates with suicidal tendencies ended up committing suicide. The proportion of deaths due to suicide in Indian prisons has been reported to be as high as 5–8%. A study in 2008 reported suicide as a cause for 11% of prison deaths.<sup>30</sup>

In October 2015, through a criminal public interest litigation filed by a social group, Jan Adalat, a judicial enquiry into the living conditions of the inmates in various jails in Maharashtra was ordered. The report submitted to the court showed lack of basic amenities

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<sup>24</sup> Supra n. 5, Rule 13, provides, “All accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation.”

<sup>25</sup> Supra n. 5, Rule 15 provides, “The sanitary installations shall be adequate to enable every prisoner to comply with the needs of nature when necessary and in a clean and decent manner.”

<sup>26</sup> Supra n. 5, Rule 16, provides, “Adequate bathing and shower installations shall be provided so that every prisoner can, and may be required to, have a bath or shower, at a temperature suitable to the climate, as frequently as necessary for general hygiene according to season and geographical region, but at least once a week in a temperate climate.”

<sup>27</sup> National Human Rights Commission, Suicide in Prison, Prevention Strategy and Implication from Human Rights and Legal points of view, (December, 2014) available at <http://nhrc.nic.in/Documents/Publications/SUICIDE%20IN%20PRISON%202014.pdf> (Accessed on June 20, 2016)

<sup>28</sup> Bhaumik, Soumyadeep and Mathew, Rebecca J. “Health and beyond...strategies for a better India: using the “prison window” to reach disadvantaged groups in primary care” J Family Med Prim Care. 2015 Jul-Sep; 4(3): 315–318. doi: 10.4103/2249-4863.161304 (Accessed on October 14, 2016)

<sup>29</sup> Dasgupta, Priyasree “Ram Singh's death: Why stopping jail suicides is not easy” available at <http://www.firstpost.com/india/ram-singhs-death-why-stopping-jail-suicides-is-not-easy-654840.html> (Accessed on October 14, 2016)

<sup>30</sup> Supra 28

toilets, bathrooms and medical aid in various prisons including Yerwada, Arthur Road and Byculla prisons.<sup>31</sup>

Overcrowding becomes a major roadblock for prison administrations and other competent authorities to “offer education, vocational training and work, as well as other forms of assistance that are appropriate and available, including those of a remedial, moral, spiritual, social and health- and sports-based nature”.<sup>32</sup>

Overcrowding makes separation of the under-trials almost impossible which according to Rule 112 of Nelson Mandela Rules the untried prisoners are to be kept separate from convicted prisoners and that young untried prisoners should be kept separate from adults in a separate institutions Overcrowding makes the task of rehabilitation more difficult.<sup>33</sup>

Overcrowding also has a major impact on the safety and security of prisoners and staff. Where the prisoner to staff ratio increases, tensions can be high and prisoners' anger and frustration about the conditions in which they are being held develop naturally. It increases the risk of violence, prisoner protests and other disturbances leading even to suicide.

## 5. SUGGESTIONS TO REDUCE OVERCROWDING

The first prerogative for achieving success in reducing overcrowding in prisons is the existence of political will. Without the will and courage to introduce policies and programmes that may challenge punitive approaches or which may need significant investment initially, as well as the will to sustain such policies over a period sufficient to establish a strong basis for a long lasting reduction in prison overcrowding, it is extremely challenging, if not impossible, to achieve real change.<sup>34</sup>

Speed up and improve police investigation through proper training and orientation programmes, sensitizing them of the human rights violations that result from a delayed investigation.<sup>35</sup> In *Hussainara Khatoon (I)*<sup>36</sup> the Supreme Court stressing the right to speedy

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<sup>31</sup><http://www.dnaindia.com/india/report-dna-exclusive-maharashtra-jails-are-overcrowded-lack-basic-amenities-like-bathrooms-2193607> (Accessed on May 25, 2016)

<sup>32</sup> *Supra* n. 5, Rule 4 (2)

<sup>33</sup> *Supra* n. 5, Rule. 1 provides, “The purposes of a sentence of imprisonment or similar measures deprivative of a person’s liberty are primarily to protect society against crime and to reduce recidivism. Those purposes can be achieved only if the period of imprisonment is used to ensure, so far as possible, the reintegration of such persons into society upon release so that they can lead a law-abiding and self-supporting life.”

<sup>34</sup> *Supra* n. 16

<sup>35</sup> In *Hussainara Khatoon (I)* [(1980) 1 SCC 81. The Court stressed the importance of speedy trial in criminal justice system. It observed, “...it is the constitutional obligation of the State to devise such a procedure as

trial observed, "...it is the constitutional obligation of the State to devise such a procedure as would ensure speedy trial to the accused. The State cannot be permitted to deny the constitutional right of speedy trial to the accused on the ground that the State has no adequate financial resources to incur the necessary expenditure needed for improving the administrative and judicial apparatus with a view to ensuring speedy trial".

Inordinate delays in the investigation and prosecution of criminal cases involving serious offences and in their trials is a blot on the system of justice. The objective of penal law and societal interest in setting criminal law in motion against offenders with reasonable expedition is thereby frustrated. The adverse effect of this delay on society at large is immeasurable. Both, fear of law and faith in the criminal justice system are eroded irretrievably.<sup>37</sup>

Imprisonment of fine defaulters exacerbates overcrowding amongst other negative consequences. Consideration should be given to other non-custodial options to deal with defaulters, taking into account their particular circumstances. Such options may include providing them with remunerated work by the state, so that the proceeds of their labour can be used to pay their fines.

Introducing community service as a form of punishment for lesser or minor offences will help to reduce overcrowding in jails. Though community service at present is being ordered by some courts as a condition for release on probation of good conduct under the Probation of Offenders Act, 1958, there have also been instances of such orders being set aside with the appellate courts holding that there was no legislative sanction for it.<sup>38</sup>

Providing legal assistance to the poor and needy prisoners will greatly reduce overcrowding. It must not be forgotten that providing legal services for the weak, the poor and the marginalized is a constitutional mandate (Article 39 A). Therefore states should strengthen the mechanisms for free legal aid. Lok Adalats, as envisaged under Section 19 of the The Legal Services Authorities Act, 1987, should be organized more regularly to dispose of minor offences. Justice Ramaswamy says, "Resolving disputes through Lok Adalat not only minimizes litigation expenditure, it saves valuable time of the parties and their witnesses

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would ensure speedy trial to the accused. The State cannot be permitted to deny the constitutional right of speedy trial to the accused on the ground that the State has no adequate financial resources to incur the necessary expenditure needed for improving the administrative and judicial apparatus with a view to ensuring speedy trial"

<sup>36</sup>(1980) 1 SCC 81

<sup>37</sup> Supra n. 23

<sup>38</sup> <http://indiatoday.intoday.in/story/make-social-work-a-form-of-punishment/1/213234.html> (Accessed on May 25, 2016)

and also facilitates inexpensive and prompt remedy appropriately to the satisfaction of both the parties.”<sup>39</sup>

More open jails should be set up as an alternative to closed jails. As per the Prison Statistics India, 2014 there are only 54 open jails in India.<sup>40</sup> It is believed that open jails eliminate tensions and barriers created by the restrictions and physical restraints placed on inmates of a closed jail and provide them better opportunity for re-interaction and re-assimilating with free community and family.<sup>41</sup>

Probation should be resorted to whenever individual circumstance of an offender allows. Convicts should not be sent to jails as matter of routine. This will drastically reduce prison population. Under section 4 of the Probation of Offenders Act, 1958, the court has the power to release certain offenders on probation of good conduct. Sub section 1 states, “When any person is found guilty of having committed an offence not punishable with death or imprisonment for life and the court by which the person is found guilty is of opinion that, having regard to the circumstances of the case including the nature of the offence and the character of the offender, it is expedient to release him on probation of good conduct, then, notwithstanding anything contained in any other law for the time being in force, the court may, instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond, with or without sureties, to appear and receive sentence when called upon during such period, not exceeding three years, as the court may direct..”

## 6. DIRECTIONS OF THE SUPREME COURT IN RE-INHUMAN CONDITIONS IN 1382 PRISONS

By an order dated 5 February 2016 the Supreme Court had taken note of fact of overcrowding in prisons and had given directions which were considered helpful in the reduction of the prison population and generally improve the living conditions of prisoners. These directions were as follows:

- (i) The Under Trial Review Committee in every district should meet every quarter and the first such meeting should take place on or before 31st March, 2016. The

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<sup>39</sup> V Chengte, Dr. Pralhad “Lok Adalat: Some Review” International Journal of Development Research Vol. 06, Issue, 05, pp. 7963-7965, May, 2016 available at <http://www.journalijdr.com/sites/default/files/5466.pdf> (Accessed on October 14, 2016)

<sup>40</sup> *Supra* 18

<sup>41</sup> Vibhute Khushali. “Open Peno-Correctional Institutions In India A Review Of Fifty-Five Years Experiences and Expectations” available at [https://www.mpicc.de/shared/data/pdf/fa\\_31\\_vibhute03\\_06.pdf](https://www.mpicc.de/shared/data/pdf/fa_31_vibhute03_06.pdf) (Accessed on October 14, 2016)

Secretary of the District Legal Services Committee should attend each meeting of the Under Trial Review Committee and follow up the discussions with appropriate steps for the release of under trial prisoners and convicts who have undergone their sentence or are entitled to release because of remission granted to them.

- (ii) The Under Trial Review Committee should specifically look into aspects pertaining to effective implementation of Section 436 of the Cr.P.C. and Section 436A of the Cr.P.C. so that under trial prisoners are released at the earliest and those who cannot furnish bail bonds due to their poverty are not subjected to incarceration only for that reason. The Under Trial Review Committee will also look into issue of implementation of the Probation of Offenders Act, 1958 particularly with regard to first time offenders so that they have a chance of being restored and rehabilitated in society.
- (iii) The Member Secretary of the State Legal Services Authority of every State will ensure, in coordination with the Secretary of the District Legal Services Committee in every district, that an adequate number of competent lawyers are empanelled to assist under-trial prisoners and convicts, particularly the poor and indigent, and that legal aid for the poor does not become poor legal aid.
- (iv) The Secretary of the District Legal Services Committee will also look into the issue of the release of under-trial prisoners in compoundable offences, the effort being to effectively explore the possibility of compounding offences rather than requiring a trial to take place.
- (v) The Director General of Police/Inspector General of Police in-charge of prisons should ensure that there is proper and effective utilization of available funds so that the living conditions of the prisoners is commensurate with human dignity. This also includes the issue of their health, hygiene, food, clothing, rehabilitation etc.
- (vi) The Ministry of Home Affairs will ensure that the Management Information System is in place at the earliest in all the Central and District Jails as well as jails for women so that there is better and effective management of the prison and prisoners.
- (vii) The Ministry of Home Affairs will conduct an annual review of the implementation of the Model Prison Manual 2016 for which considerable efforts have been made not only by senior officers of the Ministry of Home Affairs but also persons from civil society. The Model Prison Manual 2016 should not be

reduced to yet another document that might be reviewed only decades later, if at all. The annual review will also take into consideration the need, if any, of making changes therein.

- (viii) The Under Trial Review Committee will also look into the issues raised in the Model Prison Manual 2016 including regular jail visits as suggested in the said Manual.

Further vide our order dated 6th May, 2016<sup>42</sup> the Supreme Court had directed the States and the Inspector General of Prisons to prepare a Plan of Action either to reduce overcrowding or to augment the infrastructure so that there is more space available for each prisoner. In particular the order was passed to expand the mandate of the under-trial Review Committee to examine the cases of under-trials who fall in the following categories:

- (a) Become eligible to be released on bail under Section 167(2)(a)(i)&(ii) of the Code read with Section 36A of the Narcotic Drugs and Psychotropic Substances Act, 1985 (where persons accused of section 19 or section 24 or section 27A or for offences involving commercial quantity) and where investigation is not completed in 60/90/180 days;
- (b) Are imprisoned for offences which carry a maximum punishment of 2 years;
- (c) Are detained under Chapter VIII of the Criminal Procedure Code i.e. under Sections 107, 108, 109 and 151 of Cr.P.C.;
- (d) Become sick or infirm and require specialized medical treatment (S.437 of the Code);
- (e) Women offenders (S.437 of the Code);
- (f) Are first time male offenders between the ages 19 and 21 who are in under trial custody for offences punishable with less than 7 years of imprisonment and have suffered at least 1/4th of the maximum sentence possible;
- (g) Are of unsound mind and must be dealt under Chapter XXV of the Code;
- (h) Are eligible for release under Section 437(6) of the Code, wherein in a case triable by a Magistrate, the trial of a person accused of any non-bailable offence has not been concluded within a period of sixty days from the first date fixed for taking evidence in the case.

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<sup>42</sup> Re - Inhuman Conditions In 1382 Prisons (II) Writ Petition (Civil) No.406/2013

Then on 3 October 2016 the Supreme Court took stock of the failures of the states to comply with its orders for the protection of the fundamental rights of prisoners. Though the court had, vide order 6 May 2016, directed the States and the Inspector General of Prisons to prepare a Plan of Action for reducing the prison population, yet not a single State or Union Territory has bothered to prepare a Plan of Action. Expressing its dismay the Court said “We are a little distressed to note that even though this Court has held on several occasions that prisoners both under trials and convicts have certain fundamental rights and human rights, little or no attention is being paid in this regard by the States and some Union Territories including the National Capital Territory of Delhi. Certainly fundamental rights and human rights of people, however they may be placed, cannot be ignored only because of their adverse circumstances.”<sup>43</sup> The court, thus, directed the Union of India through the Ministry of Home Affairs to obtain the status of compliance of its orders passed on 5 February 2016 and 6 May, 2016 as on 30 September 2016.

## 7. CONCLUSION

Overcrowding in prisons undermines the rights of a prisoner to human dignity inherent in all human beings. There could be several factors that lead a prisoner to commit a crime but nevertheless a prisoner has a right to be treated as a human being who is entitled to all the basic human rights, human dignity and human sympathy.<sup>44</sup> While there is no doubt that a prisoner’s liberty is restricted by the fact of his incarceration, his or her rights which are not linked to incarceration are to be upheld and defended. Moreover, we should not forget that prison is a human institution and therefore all noble human aspirations should be nurtured like in any other civil institutions and not to arrest them either directly or indirectly. Prisoners should not be treated with contempt as though they ceased to be human beings on entering prison. It is the duty of the state to ensure that fundamental rights of the prisoners are not grossly violated while in prison.

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<sup>43</sup> Ibid

<sup>44</sup> T. K. Gopal v. State of Karnataka (2000) 6 SCC 168.

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## **Feminist Movements and Gender Politics: Transnational Perspectives on Intersectionality**

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### ABSTRACT

Intersectionality has received widespread attention in recent years; in both discursive engagements by scholars and empirical application in diverse fields of health and development. Despite its growing popularity, and two and half-decades since its origin, the concept continues to be mired in critiques concerning its universal applications, gap between theoretical production and empirical application, and its tendency to capture debates on gender inequalities.

Using some of these critiques as a starting point, in this paper we reflect on 'southern' perspectives on Intersectionality and review its contribution to feminist theory and politics in a globalising world. Directly informed by our ongoing engagement with the concept and analytic framework of intersectionality, we synthesise recent developments in intersectionality theory and discuss its potential for opening spaces to locate differences in the women's movement(s) and the political projects they advance. Reflecting on some of the contestations and debates held within the women's movement, we then discuss the potential added value of

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an intersectionality informed feminist analysis for understanding experiences of oppression and advancing feminist scholarship and politics.

**Keywords:** Intersectionality, Feminist Movement, Transnational Perspective, Global South, Caste, Gender, Inequities

## 1. INTRODUCTION

Intersectionality has received widespread global attention in recent years; in both discursive engagement and empirical application in diverse fields of health and development. While it has gained significant popularity amongst feminist scholars, intersectionality has also been subject to diverse interpretations and contestation. Two and half-decades since its origin, the concept continues to be mired in criticisms around its universal applications, gap in theoretical production and uptake or empirical application, among others. These contestations played out most recently in India in a debate on intersectionality triggered by a paper by Nivedita Menon in 2015 which, in effect, was a critique and rejection of Intersectionality for feminism(s) of the global South.

Using the core arguments and objections raised by Menon and other scholars contributing to this debate (John, 2015; Nash, 2015) as a starting point, this paper reflects on ‘southern’ perspectives on Intersectionality and reviews its contribution to feminist theory and politics in a globalising world. Directly informed by authors’ ongoing engagement with the concept and analytic framework of intersectionality, the paper attempts to synthesise recent developments in intersectionality theory and discuss its potential for opening spaces to locate differences in the women’s movement(s) and their political projects. In doing so, we draw on our engagement with the analytic framework of intersectionality and its application to feminist informed equity research (via a series of consultations<sup>2</sup>) as well as our past and ongoing involvement with women’s movement struggles.

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<sup>2</sup>All authors were involved in conceptualising and organising the following events: (i) Workshop on "Learning to do health equity research addressing multiple axes of inequalities". 13-14 August, 2015; and (ii) Consultation on Conceptual and methodological challenges in studying the intersections of gender with other social inequalities: implications for health equity research, 11-12 September 2014. Both these were organised by the ‘Gender’ sub-theme group of “AROGYAM” (Advances in Research on Globally Accessible Medicine), an Indian- European Research Network Scheme, led by the University of Edinburgh and involving partners at the Jawaharlal Nehru University (New Delhi), the Achutha Menon Centre for Health Science Studies, Sree ChitraTirunal Institute for Medical Sciences and Technology (Trivandrum), and the University of Heidelberg. The first author is also the Chair of an international network on Gender, Rights and Development, which hosted a roundtable on transatlantic feminist perspectives on Intersectionality on 25 April 2016, involving many Intersectionality scholars and critics.

## 2. SUMMATION OF CRITIQUES

Nivedita's piece rests on three core arguments, which we summarise here: first, what she eloquently describes as 'imperialism of categories', whereby certain universal categories, often defined from a 'western' perspective, are increasingly imposed on non-western ways of understanding the world. Second, popularity enjoyed by intersectionality must be seen in light of its endorsement by United Nations and other agencies and their agendas, which as argued in Carbado *et al.* (2013), threatens or neutralises the political project it aims to address. Ironically, in this argument, there is an implicit acknowledgement of the political and subversive potential of the concept. Third, Menon questions the utility of intersectionality for India (and other post-colonial states in Global South) where women's movement have a long-standing history (and politics) of engaging with multiple-identities. The identity of 'woman' in India- the presumed subject of feminist politics- Menon argues, has never been fixed and "destabilised... by the politics of caste, religious community identity and sexuality" (2015, p. 38).

Other critiques of intersectionality centre on its applications and methodological challenges; notably whether all identities are intersectional or only multiply marginalised subjects have an intersectional identity. While some feminist scholars insist that intersectionality refers to all subject positions (which are all fundamentally constituted by the interplay of race, gender, sexuality, class among others), majority of intersectional scholarship has centred on the particular positions of multiply marginalised subjects. This unresolved theoretical dispute makes it unclear whether intersectionality is a theory of *marginalised subjectivity* or a *generalised theory of identity* (Nash, 2008: 9–10 italics added).

This paper is structured around three main sections: First, we briefly introduce 'intersectionality', its historical roots and describe its longstanding genealogy of examining intersections. In articulating the different meanings and understandings triggered by an intersectional framework we offer preliminary explanations for resistance and challenges to its wider application. Second, we locate intersectionality in the interstices of the politics and binaries of the Global North and the Global South. Here we argue that the case for intersectionality is strengthened by a feminist agenda that has been defined as much by feminist politics of the 'West' as by the resistance and politics of social movements in the South. We illustrate this using examples from contemporary developments in caste politics and feminists' attempts to critique and de-stabilise gender binaries. Third, we examine what intersectionality

can offer to feminist politics and its potential for enriching the rather nascent body of feminist equity research.

### 3. INTERSECTIONALITY: A BRIEF INTRODUCTION

Intersectionality encompasses “a cluster of theoretical positions, which seek to revise the view that our social relations are experienced as separate roads” and reject the attempts to reduce people and their lived realities to one category at a time (Kapilashrami *et al.*, 2015; p. 5). Such rejection allows for visiblising multiple positions “that constitute everyday life and the power relations that are central to it” (Dhamoon, 2011; p. 230).

The origin of the ‘concept’ may be traced to a particular black feminist critique of the ways in which mainstream feminism (that was inherently white) and race movements (that were evidently patriarchal) had historically ignored the intersections of race and patriarchy (Crenshaw, 1988; 1991). It is specifically rooted in Crenshaw’s argument that legal discrimination against black women can only be understood if we appreciate that their experience is greater than the sum of racism and sexism experienced by them (Crenshaw, 1989). While the language of ‘Intersectionality’ has become popular since the early 1980s, elucidated through the metaphor of intersecting road to explain the ways in which gender and racial discrimination compounded each other, proponents of intersectionality have constantly reminded us that analysis of the relationship between multiple interrelated modalities of difference has a more longstanding genealogy. There is widespread recognition that intersectional analysis was a feature of various social struggles including, as Dhamoon (2011) and others reinforce, feminists struggles against racism, colonialism and slavery. Mary John presents a compelling account of intersectionality references that date back to the 19<sup>th</sup> century writings and activism, tracing its roots in collective struggles against colonialism and heteronormative patriarchy (See John, 2015). Further, scholars and activists have in recent decades broadened intersectionality to engage a range of issues, social identities, power dynamics, legal and political systems, and discursive structures in both global north and south. It is beyond the scope of this paper to present and evaluate different delineations of intersectionality. However, one particularly useful description by McCall (2005) compels us to perform analysis at multiple levels to challenge assumptions and stereotypes about categories “women” “poor”, “disabled”, “dalit”, “drug users” and reveal which structures of inequalities enable or limit possibilities. Arguing for a more complex understanding of identity, social position and inequality in the social determinants of health, such analysis towards an ‘inter-

categorical' account of social location, enables us to recognise differentiation without reifying social groupings – thus encouraging a focus on social dynamics rather than social categories (Kapilashrami *et al.*, 2015). Notwithstanding these, we concur with Dhamoon and Hankivsky's observation that despite broad take-up elsewhere little attention is paid by researchers and advocates of equity to the breadth of the theoretical developments and applications of intersectionality in the field (2011, p. 17).

We now move to this precise gap in the limited engagement with intersectionality. The shortfall in such an engagement can be attributed, only partially, to the fuzziness of the concept or its 'misinterpretation' (John, 2015). Here, it is important to first establish that as new modes of thinking about questions of health, livelihoods and experiences of discrimination and violence surface, the paradigm of intersectionality has evolved and embraced complexities in making sense of lived realities from multiple social locations<sup>3</sup>. This, we argue, is the very strength of this analytic framework, as it evokes different meanings (and distinct purposes) for those occupying different positionalities according to their location in the global system; activist, researcher, scholar (or other). To this effect, intersectionality is a constantly evolving framework, subjected to different interpretations and applications over the years. It is simultaneously referred to as a concept, theory or cluster of theoretical positions (Kapilashrami *et al.*, 2015), heuristic and analytical tool (Dhamoon 2011), methodology, research and policy paradigm (Hankivsky, 2011; Hancock, 2007).

While some scholars have tried to reduce this gap in engagement with intersectionality informed analysis, it is worth registering Hankivsky's observation: namely, that there is a risk that intersectionality in inequalities research remains operable at surface level, perhaps as a semantic device in policy discussion, but without a substantive reconfiguration at the analytical level. Another way of characterising this problematic is to follow Yuval-Davis's concern over a 'conflation or separation of the different analytic levels in which intersectionality is located, rather than just a debate on the relationship of the divisions themselves' (Yuval-Davis, 2006; p. 195). It is to these delineations that we now turn.

#### 4. SITUATING INTERSECTIONALITY IN THE INTERSTICES OF THE POLITICS OF GLOBAL NORTH AND GLOBAL SOUTH: A TRANSNATIONAL FEMINIST PERSPECTIVE

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<sup>3</sup>Two edited volumes that advance the conceptual and methodological debates on intersectionality include: Summer 2013 issue of *Signs*, Intersectionality: Theorizing Power, Empowering Theory, guest edited by Sumi Cho, Kimberlé Williams Crenshaw, and Leslie McCall; and Hankivsky, O. (Ed.). (2011). Health inequities in Canada: intersectional frameworks and practices. UBC Press.

A key ground for scepticism over or rejection of intersectionality, argued in Menon's paper as well as noted in discussions held in the three workshops, is tied to its western roots and an uncontested universal application of imperial concepts to explain complex realities in particular geo-political contexts.

However, if we take into account theoretical developments and applications of intersectionality, it becomes apparent how these understandings are as much shaped by (and applicable to) struggles to challenge domination by patriarchy and caste (a distinctively 'southern' construct) as by western understandings of race and patriarchy. This point is clarified in a recent paper that examines how the case for an intersectional perspective is made more compelling by advancements in contemporary scholarship reflecting feminist 'political desires' from both the global North and South (Kapilashrami *et al.*, 2015). Authors argue that a leap in advancing the analytical frame of intersectionality, towards anti- and inter-categorical understanding of gender intersections, was made through feminists' attempts to overcome gender binaries to develop a nuanced analysis of how power operates at the intersections of multiple structural positions alongside confronting male hegemonic power. These attempts have a long history and include feminist critiques of the orthodoxy in earlier understandings of gender differences based on male and female binaries and its (irr)relevance to contemporary globalised societies and changing labour markets (See Annandale and Hunt, 2000; Walby, 1997; Gandhi and Shah, 1991; Menon, 2009; Anandhi, 2009; Geetha and Rajadurai, 1998; Banerjee *et al.*, 2012).

Likewise, interdependencies of caste, class and gender were brought to fore in early 20<sup>th</sup> century in B R Ambedkar's seminal speech on *Annihilation of Caste*. In his analysis, Ambedkar highlights how controlling women's sexuality (through practices prescribed by *brahminical* patriarchy such as child marriage, enforced widowhood and sati) becomes quintessential to maintaining the caste system. These intersections are further exposed in the works of Chakravarti (1993, 1998), Velaskar (1998, 2010), Rege (1998, 2013) and Guru (1995) who reiterate the tenuous relationship between women's issues and the caste question. Earlier, in 1992, Gabriele Dietrich in her essay "Dalit Movement and the Women's Movements" criticised the mainstream women's movement's blindness to the caste dimensions of violence against *Dalit* women and its tendency to frame it exclusively as a gender issue. Like Rege (1998) traces the rise and assertion of *dalit* women's movement as a direct response (resistance) to their exclusion from two important social movements of the 1970s; the patriarchal *dalit* movement and the women's movement with its *brahminical* middle class bias. In doing so she

implores for a *dalit* feminist standpoint that establishes the “imperative for feminist politics to historically locate ‘difference’ in struggles of marginalised women” (Kapilashrami *et al.*, 2015, p. 13).

More recent works emphasise the heterogeneity of the caste system and the social group of ‘dalit’ with additional hierarchies of sub-castes, geo-political, ethnic and linguistic differences, and locate these in transitions brought about by “changes in state formation, economic and social relations, greater assertion of caste identity in politics, and legislative and constitutional changes” (*ibid.*, p. 13). Work by Mangubhai (2014) acknowledges this fluidity and embraces a more nuanced approach to analysing caste based inequalities at multiple levels- experiential, institutional and inter-subjective - to offer insights into how systems of caste, class and gender construct privileges and deprivation of livelihoods and health resources, shaping the experience of different women and men.

In presenting the above account, we agree with Menon that a particular delineation of feminist politics in the ‘global South’ has been critical of the “single axis framework” engendering a politics of engaging with multiple identities (mainly of class, gender and caste). In fact, we argue that these works make a substantial contribution in advancing the intersectional paradigm and its application. However, as also illustrated by Gopal (2015), the above developments offer only a partial and nebulous account of feminist movements and historic struggles in India (or from the global South). Here, it is important to remind ourselves that a nuanced *problematic* of gender (including questioning the very category of ‘woman’) has not percolated activism, policy and research agenda in the region; and deep divisions within and across social movements persist. Drawing on two authors experiences as part of the autonomous and non-autonomous movements, we examine these divisions to illustrate particular utility of the intersectionality framing.

##### 5. CONTESTATIONS WITHIN THE WOMEN’S MOVEMENTS: WHAT THE INTERSECTIONALITY LENS MAY OFFER TO FEMINIST POLITICS?

The early 1990s saw the emergence of a number of autonomous dalit women’s organisations as a response to the ‘*brahminism* of the feminist movement and patriarchal politics of dalit politics’ (Rattanpal 2015). These include the National Federation of Dalit Women formed in Delhi in 1995, the Tamil Nadu Dalit Women’s Movement in 1997, the Dalit Women’s Network for Solidarity (DAWNs) in Bengaluru in 2006, and more recently, the All India *Dalit MahilaAdhikarManch* launched in 2014. A number of Muslim women’s organisations also

emerged during the late 1990s and the early 2000s, and coalesced into two major movements for Muslim women with slightly varying organising strategies: The Muslim Women's Rights Network (MWRH) and the *Bharatiya Muslim Mahila Andolan* (BMMA).

Critiques from these movements go beyond 'exclusion' of Dalit or Minority women's issues from the agenda of the mainstream women's movement. In fact, there is widespread recognition that the mainstream women's movement has taken on board issues faced by Dalit women and women from minority communities. What was being contested was the absence of Dalit women and women from minority communities among the leadership of the mainstream women's movement. Such invisibility also translated into, what these movements regard as (and challenged) the hegemony of the mainstream women's movement in the creation of theoretical knowledge. A statement issued by DAWNs challenges the existing stereotype of Dalit women as doers/activists who have little to contribute as thinkers and defines the Network's role as one of articulating the Dalit women's own vision of emancipation and building their own praxis and theory (Stephen, 2009).

The treatment of women from minority communities as entities who will be defined exclusively by their religious (or other) identity ignoring their other positions (and multiple oppressions they face) is well illustrated in this statement of, well-known woman activist, Flavia Agnes:

*"... The women's movement treats upper caste Hinduism as the norm and treats women from minority communities as representatives of their respective groups."*

(Agnes, 2008 in Kirmani, 2009).

Nearly a decade since these observations were made, there appears to be little movement forward in terms of recasting 'women's' issues from a plurality of vantage points and an acknowledgement that gender plays out differently depending on one's many intersecting identities.

Further, several vibrant and challenging discussions held within the autonomous women's movement on in/exclusion of *hijras* and queer identities, and contentious positions navigated in campaigns for women's reproductive and sexual rights, lay bare the highly contested nature and terrain of feminist politics. Women's groups have been criticised for their historical silence on sexual rights outside heterosexual rape, treatment of 'lesbian issues' as

distinct from 'women's issues', and limited representation of and engagement with those working with alternative gender and sexual identities. Sharma and Nath (2005), for instance, point to the widespread belief among the members of the mainstream women's movement that discussions on sexuality are appropriate only for privileged classes and contexts. In their analysis of the response of progressive movements to issues of same-sex sexualities, they also highlight the absence of a discourse that locates non-normative sexualities within the larger analysis of patriarchy. Thus, what emerges as a significant gap in the social and political mobilisation within women's movement is a proactive articulation of a women's right to her sexuality and recognition of how sexuality is used to construct and maintain other inequalities in the realm of gender, caste and religion. Sharma and Nath (2005) also offer a critical reflection on identity-based politics, mainstay of most political organising around sexuality, for its potential for creating hierarchies of oppression, whereby behaviours and appearance inconsistent with 'available identity categories' is seen with suspicion. In this last thesis, they make a compelling case for the adoption of intersectionality to advance the social justice and transformative intent of same-sex politics.

Similar contentions appeared in the mainstream health movement, criticised in its early years for relegating women's issues to reproductive rights and campaigns against contraceptive and other technologies; secondary to the macro analysis of political economy of health<sup>4</sup>. The limited visibility of disabled people's experience in mainstream health policy debates, statistics, and activism, and near invisibility of its intersections with food security, land rights, livelihood/employment or sexuality struggles underscore the need for moving beyond *silos*.

Spaces to express these contentions and redress exclusion have been numerous (e.g. debates on domestic violence bill and HIV/AIDS legislation, coordinating committee meetings of autonomous women's conference, coordinating committee meetings of autonomous women's conference and the people's health movement). For instance, following intense discussions, the organising committee of the 2006 National Conference of Women's Movements included "Challenging divisiveness, affirming diversities" as one of the themes in their call. The call specifically sought support for women doubly marginalised because of their

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<sup>4</sup>Here, we do not suggest that members of the mainstream health movement lacked an appreciation of intersections that produce inequities. However, in practice and owing to a number of factors not least the adverse geo-political environment, such appreciation did not inform analysis and activism on health for all, nor were attempts made to build synergies with other progressive movements. Moreover, within the women's health movement while the focus was on campaigns against contraceptive and other reproductive technologies, the very terminology of "reproductive health and rights" was criticised as this reduced women to their wombs. Women's grassroots organisations working on health on the other hand continued to advocate for expanding reproductive services, influenced by the needs on the ground for better abortion services and contraceptive services.

identity, e.g. dalit, religious minority, disability, and "lesbian, bisexual, transgendered, and sex workers". Likewise, feminists have critiqued the new Surrogacy Bill for restricting conditional surrogacy to married Indian couples, thereby violating fundamental rights of single women and gay people and discriminating on the basis of nationality, marital status, sexual orientation or age. This positive trend mirrors developments in feminist scholarship. In the last decade there has been more substantive engagement by feminist scholars with sexuality studies. From questioning the silence around sexuality (John and Nair, 1998), to discussions on sexual desires (in contrast to a primary focus on 'violence') and non-normative and marginalised sexualities, (Menon, 2001, 2009; Azim *et al.*, 2009; Roy, 2013) feminist scholarship has come a long way. Yet, as Legg and Roy (2013) argue, the critique of heteronormativity is limited to discussions on queer issues and identities; not extended to (nor mainstreamed in) scholarship on gender and patriarchy.

Furthermore, critiques of the politics of exclusion have been few and far between, proving insufficient to create a robust analysis of multiple intersections with structural inequalities that percolates deep into the ethos and practices of women's groups and development organisations. Failure to recognise differences shaped by other identities and structures of oppression risks solidifying the divisions created within the feminist movement on the basis of age, sexuality or caste, and further marginalising or excluding women who do not adhere to specific imagery and conceptualisations.

Intersectionality on the other hand challenges the primacy accorded to singular categories (such as "women" or "poor") and emphasises the ways in which differences work through one another to affect individuals or socially marginalised group. It rejects the possibility of universalising women's experiences, making it a valid means of enquiry into what drives inequalities in an ever changing geo-political climate and with what effects; or to analyse social stratification as a whole.

Thus the added value of intersectionality for feminist scholarship and politics lies in:

- i) moving beyond concepts of double or triple burden faced by women to examine distinctive ways in which productive and reproductive roles are shaped for different women by changes in macro and micro political and economic environment. To illustrate this point further, an intersectionality informed gender analysis of the changing labour market will allow for a differentiated analysis with respect to women's specific location at the intersections of diverse social structures. This would potentially

expose the (ir) relevance of public-private dichotomy for working class women, and how middle class women's gains in the productive sphere (i.e. availing opportunities arising in the formal paid employment sector) implicates the public-private dichotomy experienced by women from lower classes or caste and expose them to further subjugation. What these also highlight is the limitation of the category of 'gender' in labour market, and the need for formulating feminist theory that brings to light the dialectics of social exclusion and power play. Thus, a theoretically informed account of intersectionality compels us to critically reflect on feminist theories and core concepts from the standpoint of difference, thereby bringing together multiple explanations and accounts on inequality while simultaneously allowing us to see how our own positionality shapes our understanding (Mohanty, 1988)

- ii) its core thesis that identities and multiple axes of social locations constitute each other and interact in ways that are not simply additive. We illustrate this with an example of health care seeking, mainly utilisation of reproductive health services in rural Western Uttar Pradesh. Here, the experience of a *Dalit* migrant woman accessing health services cannot be understood simply by her gender experience and her experience of being *dalit*. The experience of being a woman itself differs for dalits and non-dalits, i.e. gender (and prescribed norms and behaviours) can be constituted differently by cultural meanings, policies and institutional practices and aspects of historical violence and discrimination. Likewise, as we know, 'dalit' as a homogenous category has limits and needs to be stratified for livelihood, class, migration status, and be understood in the context of economic globalisation, and changing relationship between the State and its citizens. In essence, the simultaneous operation of structures of oppression make the experience at the intersection of these structures qualitatively distinct. Acknowledgement of these 'southern' categories and contexts is becoming a foci of some more recent work, both qualitative and quantitative (Mangubhai, 2014; Iyer *et al.*, 2008; Velaskar, 2010) allowing us to discuss privileges and disenfranchisement experienced at these intersections.

An intersectionality informed feminist analysis thus allows for understanding how experiences of oppression are not homogenous but contingent on historical and socio-cultural realities.

It further helps us to understand how a variety of oppressions can intersect, thus aiding political activism. Indeed, like other concepts such as 'gender mainstreaming', patriarchy, the

term intended as a call to action runs the risk of being co-opted and flattened out into yet another box to check, without producing any actual change (Paterson 2015). While not denying the potential for depoliticisation through the various institutional lives that intersectionality has taken, we argue that both feminist politics and the wider research and policy agenda on inequalities can only gain from a more nuanced appreciation of the ways in which class, caste and other systems intersect with the global political economic forces to produce different experiences and outcomes.

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## **Social Dimensions of Domestic Violence against Women**

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### ABSTRACT

Freedom from violence is the first dimension of women's capability for survival and empowerment but violence against them is omnipresent. Women in homes are made to suffer in various ways ranging from simple repression to exploitation and subjugation from birth to death. All ancient systems acknowledged the right of husbands to chastise their wives even forcibly. Women being completely dependent on men, a role model was fixed for them and even slight deviation attracted infliction of violence. There are various factors responsible for it including social, cultural, political, economic, and legal created by family, community and also State. Various social scientists have developed many theories regarding it. There are many consequences of such violence on victims and society. Various national and international surveys show high incidence of such cases all over the world. Therefore, at the international and national levels, many initiatives have been taken regarding it but more social actions and reforms are required for eradication of this evil.

Keywords: Domestic Violence; Its International and National Perspective; Its Institutions, Factors, Theories and Impact; Suggestions for its Elimination

### 1. INTRODUCTION

Violence free life is the basic requirement of any woman for humanly survival and empowerment. However, violence against women (VAW) is omnipresent being a universal invisible reality and an acceptable social behavior quite often justified on various grounds. Home signifies a place where any woman feels safe and comfortable therefore, it is unacceptable to be a site of domestic violence against her. But the fact is that domestic violence

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remains concealed in the pretended notions of love and care thereby legitimated in its various manifestations from simple oppression to exploitation and suppression. Initially women led rather insecure lives in all societies of the world as all the ancient legal systems approved the right of husbands to discipline their wives even forcibly. Women were entirely dependent on men and their lives were connected with the male members of their families. They did not have any political rights because they were kept secluded and confined within their households having fixed roles.

VAW is of various types beginning before birth till death in the forms of sex-selective abortions; infanticide; systematic denial of rights; restriction on choices in the field of education, health, movement, marriage; marital violence of different types and old age violence. Various factors *viz.*, social, cultural, political, economic, and legal are responsible for infliction of domestic violence by different institutions like family, community and also State. Many theories regarding it have been developed by social scientists including psychological, social and feminist theories discussed below. There can be various consequences of such violence *viz.*, impact on health; on family and children; and on development and economy. Still there is high incidence of such cases all over the world.

The main reason can be that the family has been considered as a private realm for centuries with implication of being immune from any legal intervention by the State. This scenario is quite blissful for males as they are free to do whatever they want being in the position of power and without any scrutiny thereby they subjugate women and confine them within the four walls of the house to deprive them of all rights and liberties. The State became an overt or covert institution for perpetrating domestic violence due to its failure to recognize it as a crime but merely a family matter. However, since independence the Indian Parliament has tried to remove VAW through legal reforms by framing many laws and Acts like Dowry Prohibition Act, 1961 and by duly amending them like insertion of Sections 498A and 304B in the Indian Penal Code, 1860 mainly due to pressure build up by women's groups to make them contextual and effectual.

Unfortunately, the social legislations and diverse socioeconomic development plans do not protect women from discrimination. In most of the Indian families, women neither own any property in their own names nor get a share in parental property due to feeble enforcement of laws rather some land and property laws discriminate against them. Thus women often economically and emotionally depend on their abusers hence ill-equipped to proceed for realization of their rights. The enactment of special laws is unable to protect women against violence that is on increase and moreover, most of the laws have been extensively misused to

their detriment. Notwithstanding the enactment of laws relating to dowry, rape, violence, the ground reality is rather distressing. It is seen that the law neither always functions in the same way nor always produces steady results rather it legitimize unequal power relations in the social order through its recognition of familial ideology, the private/public distinction, and sexual division of labour.<sup>2</sup>

## 2. THE CONCEPT OF VIOLENCE AGAINST WOMEN

VAW is an old concept which is also not confined to any caste/class/creed/race. Usually, VAW is a coercive mechanism to impose ones will over another in order to establish ones authority. Violence being complicated is defined in many ways and takes many forms. As per Black's Law Dictionary, "*Violence means unjust or unwarranted use of force usually accompanied by fury, vehemence, or outrage, physical force unlawfully exercised with the intent to harm.*"<sup>3</sup> According to Encyclopedia of Crime and Justice, "*Violence is a general term referring to all types of behavior either threatened or actual that result in the damage or destruction of property or the injury or death of an individual.*"<sup>4</sup>

The UN Secretary General says, "*Violence against women and girls is not confined to any particular political or economic system, but it is prevalent in every society in the world. It cuts across boundaries of wealth, race and culture. It is an expression of historically and culturally specific values and standards which are today still executed through many social and political institutions that foster women's subservience and discrimination against women and girls. International and regional legal instruments have clarified the obligations of States to prevent, eradicate and punish violence against women and girls.*"<sup>5</sup>

## 3. THE CONCEPT OF DOMESTIC VIOLENCE AGAINST WOMEN

The family having a hierarchal structure and sexual division of labour justifies subordination of female and uses domestic violence as a tool to maintain this composition and its continuance. India has a peculiar dimension that it is not only inflicted by husband but also by other members of his family especially his mother and sisters. It leads to the belief that women are women's enemies thereby hiding the truth that those abuser women are agents of

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<sup>2</sup>Ghosh, Biswajit and Tanima Choudhuri. (2011). "Legal Protection Against Domestic Violence in India: Scope and Limitations," *Journal of Family Violence*, Vol. 26 at pp. 319–330.

<sup>3</sup>*Black's Law Dictionary*, 7<sup>th</sup> Ed., 1999 at p. 1564.

<sup>4</sup>*Encyclopaedia of Crime and Justice*, Vol. 4, 1983 at pp. 1618-19.

<sup>5</sup>UN, "United Nations Secretary General's Campaign, Unite to End Violence Against Women," <http://endviolence.un.org/situation.shtml> visited on 25-06-15.

patriarchy. An important facet of this problem is the reluctance of people to recognize its existence in the family. Moreover, the societal emphasis in such cases has normally been on family reconciliation therefore, social and cultural approval of domestic violence led to non-reporting of such cases.

It appears that if woman does not retort at the first blow than man easily repeats it. Similarly, if husband knows that his wife will not depart even if he is violent and getting his desires fulfilled then he will certainly repeat it. However, decision of leaving a violent husband depends on various factors *viz.*, her emotions related to the ideals of marriage institution; availability of alternatives to her; acceptability of her decision in her social circle; her financial status; and the likelihood of stigmatization and seclusion in society. If after considering these factors, woman is unable to leave her abusive husband and perceive no alternative for change then either she has to tolerate it for whole of her life or take extreme step by committing suicide. However, woman can play and must play the greatest role in checking it.

Domestic violence is also known as domestic abuse, spousal abuse, intimate partner violence, wife battering, and family violence etc. Its definition varies according to the context in which it is used; over time; and in different parts of the world. Traditionally, it was perceived as physical violence between married spouses and did not include threats of violence, marital rape, etc. According to Black's Law Dictionary, it means "*violence between members of the households, usually spouses, an assault or other violent act committed by one member of a household against other.*"<sup>6</sup> However, contemporarily it has been defined very broadly to include sexual, psychological and economic abuses and moreover, the issues of power, supremacy, and control are explained to find the intent behind it.<sup>7</sup> Therefore, modern definition of domestic violence is space-neutral, multidimensional and inclusive and Laws increasingly define it as a process of exploitation, domination, and dehumanization. This extensive definition has been adopted by many countries *viz.*, USA, UK and others.<sup>8</sup>

#### 4. DEFINITIONS OF VIOLENCE AND DOMESTIC VIOLENCE: INTERNATIONAL PERSPECTIVE

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<sup>6</sup>*Supra* note 3. See also, "According to the Merriam Webster dictionary, it is the inflicting of physical injury by one family or household member on another; also a repeated/habitual pattern of such behavior," Merriam Webster dictionary, Accessed on Sep 10, 2016: <https://www.merriam-webster.com/dictionary/domestic%20violence>

<sup>7</sup>Bahrami, Ghasem, (2014). "Domestic Violence on Women: Evidence from Iran," *Journal of Research in Social Sciences and Humanities*, Vol. 4, No. 5, pp. 688 – 694, Downloaded From IP - 14.139.45.243 on dated 10-Jul-2014.

<sup>8</sup>Waldorf, L., C Arab and M Guruswamy. "*CEDAW and the Human Rights-Based Approach to Programming*," United Nations Development Fund for Women (UNDFW), 2007, Accessed on Oct 11, 2016: <http://www.unifem.org>

Earlier, VAW was perceived as a private/family matter and women had to suffer silently but now it is considered both as major public health problem and human rights violation. The Declaration on the Elimination of Violence against Women defined it as, “*Any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.*”<sup>9</sup> It expressly made a distinction between violence committed in private sphere i.e. domestic violence and violence committed in public sphere.

It further elaborates that “*violence against women shall be understood to encompass, but not be limited to, the following : (a) physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation; (b) Physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere; trafficking in women and forced prostitution; (c) Physical, sexual and psychological violence perpetrated or condoned by the State, whenever it occurs.*”<sup>10</sup> Therefore, it has defined VAW comprehensively including all spheres of a society even the State’s apathy and neglect in evolving opportunities and entitlements for women regarding employment and education etc.

During the 49<sup>th</sup> World Health Assembly, the Member States accepted that violence is a public health priority.<sup>11</sup> The World Health Organization (WHO) also defines violence as the “*intentional use of physical force or power, threatened or actual, against oneself, another person, or against a group or community that either results in or has a high likelihood of resulting in injury, death, psychological harm, mal-development or deprivation.*”<sup>12</sup> The Office on VAW of the US Department of Justice defines it as “*it is a pattern of abusive behavior in any relationship that is used by one partner to gain or maintain power and control over another intimate partner. Domestic violence can be physical, sexual, emotional, economic, or*

<sup>9</sup>Article 1, UN, “*The Declaration on the Elimination of Violence against Women,*” General Assembly Resolution No. 48/104 (1994). Accessed on Oct 10, 2016: [Un.org. http://www.un.org/documents/ga/res/48/a48r104.htm.](http://www.un.org/documents/ga/res/48/a48r104.htm)”

<sup>10</sup>Article 2, *Ibid.*

<sup>11</sup>“Its Resolution WHA 49.25 endorsed recommendations made in earlier international conferences to deal with the problem of VAW and to address its health consequences.” Jakarta Declaration on Leading Health Promotion into the 21st Century, , July 1997, World Health Organization, Accessed on Sep 10, 2016: <http://www.who.int/healthpromotion/conferences/previous/jakarta/declaration/en/>

<sup>12</sup>*Infra* note 45.

*psychological actions ... This includes any behaviors that intimidate, manipulate, humiliate, isolate, frighten, coerce, threaten, blame, hurt, injure, or wound someone.*"<sup>13</sup> Therefore, all the International Instruments have defined these terms by covering all aspects of life.

## 5. VIOLENCE AGAINST WOMEN IN INDIA

India is a multicultural, multi-religious heterogeneous society therefore, addressing and documenting VAW is highly complicated. Feminists over a period of time protested against violence be it custodial rape or torture, in streets raising awareness in people against such violence. To the earliest forms of violence, with changing times many other types of violence got added like preference for male child, inadequate nutrition, health services and policies, lack of property rights, absence of any voice in family matters, all this perpetuated anti-women policies. Not only these but other nationally unrecognized forms of violence like witchcraft, practice of *devdasis*, honour killing, violence in situations of Armed Conflict, communal violence and violence against widows, aged women, and to a single women continued unabated.

## 6. HISTORICAL CONTEXT OF DOMESTIC VIOLENCE

### 6.1 Impact of Religion

Socially endorsed VAW has been persistent since primeval times. Christianity, Judaism, Hinduism, and other patriarchal religions simply avowed male-dominated family structures. Many such societies gave the patriarch of family the right to employ force against women and children<sup>14</sup> to maintain social order. Roman civil law conferred legal guardianship of wife to husband and the concept, *patria potestas*, included the unregulated ability of husband to physically beat his wife and such rights extended to the right to sell her into slavery or to put her to death under certain circumstances.<sup>15</sup>

It is seen that religious thinking has governed political and social attitudes thus influenced concept of domestic violence. Religions have reinforced husband's right to control his wife which is expressly mentioned in religious texts hence wives were certainly in a subordinate position to husbands.<sup>16</sup> In many religions marriage is regarded as a sacred

<sup>13</sup>Office of Violence Against Women, "The Fact Sheets About the Office on Violence against Women Focus Areas, 2009, 1," Accessed on Feb 15, 2016: <http://www.usdoj.gov>

<sup>14</sup>Buzawa, Eve S. and Carl G Buzawa. (2003). "*Domestic Violence, The Criminal Justice Response*," 3<sup>rd</sup> Ed., Sage Publications at p. 57.

<sup>15</sup>Pleck, E. (1989). "*Criminal Approaches to Family Violence*," as quoted in *Id.* at p. 57.

<sup>16</sup>*Supra* note 14 at p. 58.

institution in which a wife was believed to obey her husband, remained cherished even after beaten, would not leave such marriage and maintain the home and marriage at all costs. Marital abuse was not recognized as domestic violence rather was simply a religious duty of the husband. However, for past few decades most of the denominations have tried to eliminate or address the subjugation of wives but it has not fully penetrated deep in the society resulting in quoting the scriptures like *Manu Smriti* by abusers justifying their abusive activities.<sup>17</sup>

## 6.2 Impact of Ancient Laws

The English common law, the predecessor of many statutes in the world, followed this well-established custom of male control over females. English feudal law reinforced male's property rights over female and their right to beat "their female" if needed. Since 17<sup>th</sup> century, common law has endorsed male dominance over female's bodies however, it began the process to introduce some limits on it. The 'concept of restraint' was evolved to control the unfettered rights of the husband hence power of "life and death" over wife was officially taken away.<sup>18</sup> The courts began to be concerned about the reasons and extent of beating and held wives somehow responsible for it. Therefore, the concept of allowing beating for some acts and restricting infliction of physical harm in others became limitations on common law principle to chastise one's wife. Gradually, as per Buzawas, wife beating was associated with the lower class by members of the upper classes who generally disdain such domestic violence. Such rights were illustrated by the 'rule of thumb' that specifically allowed husbands to beat their wives with 'a rod/stick no thicker than their thumbs'.<sup>19</sup>

Other societies also adopted similar theories to limit the infliction of domestic violence by the husband while condoning his abusive actions as a family patriarch to promote family values e.g. a 16<sup>th</sup> century Russian ordinance clearly listed the methods by which a husband could beat his wife.<sup>20</sup> Moreover, virtually in every society there are proverbs, jokes, and laws indicating strong cultural approval of wives beating by their husbands e.g. "A wife is not a jug...she won't crack if you hit her 10 times" (Russian proverb) and 'A spaniel, a woman, and a walnut tree – the more they're beaten, the better they be' (English proverb)." The U.S. culture was also flooded with this type of messages however, there the Puritans enacted 'the Massachusetts Body of Laws and Liberties' in 1641 that were the first laws in the world to

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<sup>17</sup>*Id.* at p. 59.

<sup>18</sup>*Id.* at p. 60.

<sup>19</sup>*Id.* at p. 61.

<sup>20</sup>Quinn, D., 1985 as quoted in *Supra* note 14 at p. 61.

expressly make domestic violence illegal. This statute provided that “*every married woman shall be free from bodily correction or stripes [lashing] by her husband, unless it be in his own defense upon her assault.*”<sup>21</sup>

In 1672, the pilgrims of Plymouth Plantation also made wife beating illegal and punishable by fine or a whipping<sup>22</sup> but they did not object to reasonable violence under religious law to enforce rules of conduct within family. However, enforcement of such laws mostly disappeared before the American Revolution because American society became more secularized<sup>23</sup> but the law enforcement agencies viz., the courts and prosecutors were under the influence of doctrine of family privacy thus largely ignored domestic violence cases and issues. Until 1970s, the legal notions of marriage, family, and domestic violence were mostly based on the English Common Law.<sup>24</sup>

The Indian position is also similar as domestic violence was present in the ancient Indian society. Its kind, frequency, and intensity varied from time-to-time. Primeval historical precedents can finely be summarized by the notions of natural inferiority of females, both physically and intellectually barring few like *Gargi* and *Maitri* and of males’ property rights over females as they being treated as property in law. “*As men ruled in government and society, so husbands ruled in the home.*”<sup>25</sup>

## 7. INSTITUTIONS IN PROMOTING DOMESTIC VIOLENCE

Although domestic violence is inflicted within the four walls of house but it has three institutions who play very crucial roles.<sup>26</sup> They are as follows:

### 7.1 The Family

The family which is a place of nurture, care and love can also be violent and discriminatory for its female members. At the time of socialization of its members at natal stages, the concept of gender discrimination is ingrained in their minds either patently or latently. There are separate norms for boys and girls in the family such as boys can go outside the house even at late hours but a girl cannot go after a reasonable time in the evening. After marriage, in marital home more restrictions are imposed on brides even in the matters of her

<sup>21</sup>Pleck, E. (1987). “*Domestic Tyranny*,” Oxford University Press, Oxford, UK at pp. 21-22.

<sup>22</sup>*Ibid.*

<sup>23</sup>*Supra* note 14 at pp. 61-62.

<sup>24</sup>Shahidullah, Shahid M. and C. Nana Derby. (2009). “Criminalisation, Modernisation, and Globalisation: The US and International Perspectives on Domestic Violence,” *Global Crime*, Vol. 10, Issue 3 at pp. pages 196-223.

<sup>25</sup>Lentz, S. (1999). “Revising the Rule of Thumb: An overview of the History of Wife Abuse,” In L. Feder (Ed.), “*Women and Domestic Violence: An Interdisciplinary Approach*,” at p. 10.

<sup>26</sup>Lakshmi, K. Vijaya. (2007). “Women and Domestic Violence – Need Solutions Through and Beyond Law,” *Supreme Court Journal*, January, 2007, pp. 32-39 at p. 34.

sexuality and reproduction and she is subjected to all discriminations resulting in infliction of domestic violence.

### 7.2 The Community

Different rules and role models have been decided for boys and girls in the community that gets reflected in social, cultural and religious practices. The male members are seen as bread winners so they must be dominating and females have to be seen as house wives only so they are subordinate to them. Her role model as house wife continues even if she is earning handsome amount of money but she has to abide by that role and if she ever tries to deviate even slightly it will give rise to infliction of domestic violence on her. Thus she is accepted in the society as an obedient daughter, subservient wife and self-sacrificing mother only.

### 7.3 The State

It is the duty of the modern welfare State to provide and protect the human rights of all its citizens. The State has to create such environment in which every person, male or female can realize one's rights and enjoy them. But the State and its functionaries have completely failed in implementing the fundamental right of equality of women. Instead of protecting rights of females they themselves practice discrimination against them by enacting and upholding discriminatory personal laws and in the name of family as private sphere they do not want to check infliction of domestic violence due to their extreme gender insensitivity. They rather believe that women misuse the provisions of law for her ulterior motives e.g. the cases filed by women under Section 498A of the Indian Penal Code, 1860 are considered to be filed for the sake of fetching money or to get easy divorce.

## 8. CONTRIBUTING FACTORS TO DOMESTIC VIOLENCE

If this evil has to be eliminated completely then searching its contributory factors is an essential task. Without removing the root causes of this problem, it will never go and continue to make lives of most of the females as hell. There is no single factor that can be attributed to it however, there are various factors which contribute in the infliction of violence.<sup>27</sup> Some of them are as follows:

### 8.1 Social and Cultural Factors

The society has fixed gender roles and expects people to behave in that very manner e.g. man has been assigned the role of breadwinner and decision maker but if due to any reason he is unable to perform this role then he is put under lot of anxiety resulting in infliction of

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<sup>27</sup>*Id* at pp. 34 -35.

domestic violence on his wife. In 1992, Coomaraswamy points that “*women are vulnerable to various forms of violent treatment for several reasons, all based on gender. 1) Because of being female, a woman is subject to rape, female circumcision/genital mutilation, female infanticide and sex related crimes. This reason relates to society’s construction of female sexuality and its role in social hierarchy; 2) Because of her relationship to a man, a woman is vulnerable to domestic violence, dowry murder, sati. This reason relates to society’s concept of a woman as a property and dependent on the male protector, father, husband, son, etc.; 3) Because of the social group to which she belongs, in times of war, riots or ethnic, caste, or class violence, a woman may be raped and brutalized as a means of humiliating the community to which she belongs. This also relates to male perception of female sexuality and women as the property of men.*”<sup>28</sup>

### 8.2 Psychological Factors

The male ego is another important factor. It is found in many studies that husband’s education level is inversely proportional to the extent of physical abuse inflicted on his wife. Moreover, domestic violence is also posited to show power and control by using different tactics of abuse by male over female. Even women also tolerate it under the impression that maintaining a good marriage primarily rests on them. They may feel feeble, blameworthy, worthless, and ashamed of their poor quality relationships but at the same time continues to live with the violent husband. Abusers also fear the consequences of seeking help which in most of the situations results in worsening their prevailing conditions.

### 8.3 Economic Factors

One of the main factors to the victim of domestic violence is the lack of any alternate place to live. They may be economically dependent on their abusers thus feel better to endure in silence hoping for improvement than to leave the house, which worsen the situation. Therefore, lack of economic resources adds to women’s vulnerability to domestic violence, of course, it does not mean that economically sound women are free from any domestic violence but the only consideration is that being economically independent if they want they can try other alternatives also.

### 8.4 Legal Factors

In India, women have various legal measures for their protection viz., Sections 498A, 304B and many other provisions in the Indian Penal code, 1860; Provisions in Personal Laws;

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<sup>28</sup>As quoted in Saravanan, Sheela. (2000). “*Violence Against Women in India, A Literature Review,*” Institute of Social Studies Trust (ISST), March.

and special laws like the Dowry Prohibition Act, 1961. But the victims may be unaware of their legal rights and availability of local agencies to help. Even if she files a complaint, in the absence of any alternative place to go, complainant has to go back to abusers with whom she may not be secure and sometimes she has to pay the ultimate price. Many complainants were evicted from their marital homes without maintenance and are unable to maintain themselves and follow complaints.<sup>29</sup> Therefore, lack of satisfactory legal protections and other remedies within the home, low levels of legal literacy among them, insensitive attitudes of judiciary, police and advocates towards victims are relevant factors for perpetuation of domestic violence in India.

### *8.5 Political Factors*

Although in the present government there are many female Ministers holding very important portfolios but overall representation of females are negligible in Parliament and State Legislative Assemblies. This underrepresentation of women in power and politics ultimately reflects in law making processes, which is male dominated lacking feminine perspective. Moreover, the notion of family being private still governs the behaviour of state functionaries involved in the governance. Country needs politicians across political parties with strong inclination to end violence and show zero tolerance to all atrocities against women whether within or outside family. Moreover, the imminent need is to allow 33% reservation for women in all legislative bodies including Parliament, State Legislatures and other local bodies to have women perspective in law making of the country.

### *8.6 Other Factors*

Alcohol and drug abuse accentuate infliction of domestic violence. It is very surprising that in some cases women's higher education or for that matter illiteracy, both contribute to domestic violence. Other relevant factors are infidelity in men; inequality between the sexes male and female; lack of moral values in society; and state inaction against perpetrators.

## 9. THEORIES OF DOMESTIC VIOLENCE

There are many theories as to the causes of domestic violence but as domestic violence has no uniform definition and it varies largely so no single theory appears to explain its all causes and cases. Some of the popular theories are as follows:

### *9.1 Psychological Theory*

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<sup>29</sup>*Ibid.*

At individual's level of analysis, some scholars asserted that domestic violence was linked with mental characteristics and personality disorders of battered women<sup>30</sup> and others asserted that of barterers.<sup>31</sup> These personality disorders include abrupt bursts of anger, weak impulse control, stress, anxiety, guilt and poor self-esteem. It is suggested that these personality disorders are factors that have been instilled during child rearing which leads some people to be more aggressive as adults. The proponents of this theory have found correlation between juvenile delinquency and domestic violence in adulthood and high incidence of psychopath among them. However, the psychological theories are disputed as research findings on personality disorders of battered women on their victimization are unclear and inconclusive.

According to Gelles and Cornell,<sup>32</sup> *"it is problematic to attribute the behaviour of battered women to their having a personality disorder because the personality of a battered woman could be a result of victimization. In addition, contradictory evidence has shown that only a small proportion of all have revealed this."* Gelles argues that social factors are more important factors than personality traits and mental illness.<sup>33</sup> Therefore, it can be inferred that there is little evidence to conclude that personality disorders either in barterers or in battered cause domestic violence.

### 9.2 Social Learning Theory

At the sociological level of analysis, proponents of this theory consider domestic violence to be an outcome of learned patterns of aggressive communiqué to which both spouses contribute. They consider family as cradle of violence where violent behaviour is learned and transmitted across generations in a cyclical manner. They suggest that a battered child learns from observing and modeling violent behaviour of others. With positive reinforcement and no opposition from victim, this behaviour continues. However, research on the effects of family as cradle of violence also has produced contradictory results. Many studies found that barterers had been battered as children or they had seen their fathers beating their mothers<sup>34</sup> however, other studies did not find such noteworthy relationship.<sup>35</sup>

### 9.3 Feminist Theory

The proponents of this theory consider male dominance as a key element in domestic violence<sup>36</sup> as the subordination of women is held to be institutionalized in patriarchal societies.

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<sup>30</sup>*Infra* note 42 at p. 967.

<sup>31</sup>*Ibid.*

<sup>32</sup> *Ibid.*

<sup>33</sup> *Ibid.*

<sup>34</sup>*Ibid.*

<sup>35</sup>*Ibid.*

<sup>36</sup>*Ibid.*

The research also supported this assertion by demonstrating correlation between patriarchal societies and rates of domestic violence against women<sup>37</sup> and explicitly husband's patriarchal beliefs were found associated with it.<sup>38</sup> Cross cultural studies have also recommended that domestic violence was a widespread practice in many patriarchal societies in which cultural values, social traditions and religious beliefs dictated male domination in gender relationships and condoned VAW by creating separate codes of conduct for male and female.<sup>39</sup> Contrarily, women's economic power and domestic activities were considered as of low levels activities and there was non-acceptance domestic violence.<sup>40</sup> The theory also approves sanction against domestic violence and shelter for battered women as associated with family power and non-patriarchal society. Domestic violence was found to be rare in those societies where physical might was not idealized. In this type of society, women had personal freedom even to leave their men easily; their relatives could also intervene; offer them shelter; and legal recourse to domestic violence was available.<sup>41</sup>

#### 9.4 Cycle of Abuse

Generally, domestic violence is defined as explicit violent incidents but when this behaviour happens in a relationship its effects continue even after these overt incidents over. Thus, domestic violence is a pattern of behaviours and moreover, once this abusive behaviour begins, it usually does not happen every day rather repeats itself in cycles.<sup>42</sup> Lenore Walker presented the model of a battering Cycle which consists of three distinct phases that are as follows:

- a) Tension Building Phase: The tension building phase is characterized by poor communication, fear of causing outbursts etc. During this stage the victim notices her partner becoming tense or reacting negatively to a minor annoyance. He may cause minor and quick violent episodes and she tries to calm the abuser down to avoid any major violent confrontation.
- b) Violent Episode: The explosion phase appears when heightened tension converts into blind rage which is realized through an irrepressible severe violent incident. During this stage, abuser attempts to dominate his partner with the use of domestic violence that may involve emotional/verbal and/or physical abuse.

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<sup>37</sup>*Id.* at p. 968.

<sup>38</sup>*Ibid.*

<sup>39</sup>*Ibid.*

<sup>40</sup>*Ibid.*

<sup>41</sup>*Ibid.*

<sup>42</sup>Pillai, Suma, "Domestic Violence in New Zealand, An Asian Immigrant Perspectives," *Economic and Political Weekly* March 17, 2001, p. 965 at p. 967.

c) Honeymoon Phase: It is characterized by affection, apology and apparent ending of domestic violence. During this stage abuser has feelings of regret and sadness. Some abusers leave from the situation, whilst others shower their victims with affection and love. The abuser seeks pardon in a contrite manner as if courting victim and promises never to let it occur again.<sup>43</sup> The cycle starts again as tension rebuilds however, it is believed that the battering cycle theory is limited as it does not reflect realities of many such victims.

## 10. CONSEQUENCES OF DOMESTIC VIOLENCE

### 10.1 Violation of the Human Rights

The rights of women are accepted as human rights and the social/economic/psychological impact of domestic violence clearly depicts that it violates many rights that have been provided to women by various National and International Instruments. Domestic violence is a violation of women's human right - to identity as it reinforces subordination of women denying her very right to her separate identity; to affection; to peace and enriching personal relations; to equal protection before law; to easy and quick recourse to competent courts for remedies; to personal development by restricting her rights to free movement/mix freely with people/participate in diverse activities and curtails her prosperity in career and acquiring skills to develop her personality; to social and political participation by confining her in home thereby denying equal access to public services and public affairs including decision making; to freedom of expression as she suffers domestic violence when she asserts her opinion; to optimum standards of health as she undergoes prolonged trauma; to life due to fatal consequences sometimes; to personal liberty and security; not to be subjected to torture/cruel/inhuman and degrading treatment; to have her physical/mental/moral integrity respected; and to associate freely.<sup>44</sup>

### 10.2 Impact on Health

Domestic violence has costs for individual victims as well as for society at large. Regarding individual victims the main cost is that of damage to her health. These include all types of consequences including fatal.<sup>45</sup> As per the WHO's Report, "*Women who are beaten by their partners are 48% more likely to be contaminated with HIV/AIDS.*"<sup>46</sup>

<sup>43</sup>Banerjee, Priya R., "Dowry in 21<sup>st</sup> Century India, the Socio-cultural Face of Exploitation," *Trauma, Violence, and Abuse*, Sage Publication, January 2014, Vol. 15, No. 1 at pp. 34-40.

<sup>44</sup>Sikri, Justice A.K., "The PWDV Act, 2005: Implementation & Enforcement," *Nyaya Deep*, NALSA, 2008, Vol. 9(1), pp. 60-73 at pp. 65-66.

<sup>45</sup>WHO, "*World Report on Violence and Health*," World Health Organization, Geneva, 2002.

<sup>46</sup>UNAIDS, UNFPA and UNIFEM (2004). *Women and HIV/AIDS: Confronting the Crisis*, Chapter 6, Accessed on June 25, 2016: <http://bit.ly/sq7eKw>. See also, UNAIDS, "*Global report: UNAIDS report on the global AIDS*

As per the WHO's latest factsheets "*Intimate partner and sexual violence have serious short- and long-term physical, mental, sexual and reproductive health problems for survivors and for their children, and lead to high social and economic costs. VAW can have fatal results like homicide or suicide; 42% of women who experience intimate partner violence reporting an injury as a consequence of this violence; Intimate partner violence and sexual violence can lead to unintended pregnancies, induced abortions, gynecological problems, and sexually transmitted infections, including HIV. The 2013 analysis found that women who had been physically or sexually abused were 1.5 times more likely to have a sexually transmitted infection and, in some regions, HIV, compared to women who had not experienced partner violence. They are also twice as likely to have an abortion; Intimate partner violence in pregnancy also increases the likelihood of miscarriage, stillbirth, pre-term delivery and low birth weight babies. These forms of violence can lead to depression, post-traumatic stress disorder, sleep difficulties, eating disorders, emotional distress and suicide attempts. The same study found that women who have experienced intimate partner violence were almost twice as likely to experience depression and problem drinking.*"<sup>47</sup>

### 10.3 Impact on Family and Children

Domestic violence adversely affects the lives of every member of such family as it generally leads to common emotional traumas for them. It, in the long run, erodes self-worth and social skills, demolishes family intimacy, reduces parenting skills and creates strong feelings of humiliation, remorse, and seclusion. It inhibits victims from playing active roles in decision making processes in the family and restricts their participation in public activities. Women develop sense of fear and insecurity as they anticipate infliction of violence thereby curtailing their priorities and choices they make for their future. Gradually, they search out men for protection and not for companionship that makes them dependent and vulnerable resulting ultimately to conform to the same ideological norms which ensure their subordination.

Domestic violence has a profound effect on children in family. There appears to be a connection between it and child mortality. Children who observe it are at a higher risk for emotional, behavioural and psychological problems including anxiety, depression, nervous,

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*epidemic, 2010,*" at p. 121; World Health Organization and Joint United Nations Programme on HIV/AIDS (2010). *Addressing violence against women and HIV/AIDS: What works?*, WHO Document Production Services, Geneva, Switzerland As quoted in UN, "United Nations Secretary General's Campaign, Unite to End Violence Against Women," Accessed on June 25, 2016: <http://endviolence.un.org/situation.shtml>

<sup>47</sup>WHO Media Centre, "Violence against women, Intimate partner and sexual violence against women, Fact sheet N°239, November 2014," Accessed on June 25, 2015: <http://www.who.int/mediacentre/factsheets/fs239/en/>

irritable, apprehensive, poor school performance, low self-esteem and psychiatric disorders.<sup>48</sup> Moreover, men who are abused as children or who were exposed to their parents' violence are far more likely to attempt suicide, consume drugs and alcohol and are twice more likely to beat their wives than sons of non-violent parents. They usually have a distorted perception of females. Daughters who have undergone and witnessed it become sexually lenient and build up hatred against men. They are also more prone to attempt suicide and may commit sexual assault crimes.<sup>49</sup>

The WHO in its latest Report has also reaffirmed about impact of abuse on children as “*Children who grow up in families where there is violence may suffer a range of behavioural and emotional disturbances. These can also be associated with perpetrating or experiencing violence later in life; Intimate partner violence has also been associated with higher rates of infant and child mortality and morbidity (e.g. diarrheal disease, malnutrition).*”<sup>50</sup>

#### 10.4 Impact on Economy and Development

Domestic violence has a serious impact on the economy of the household and ultimately on the country because abused women have to spend money in hospitals. It is an obstacle in realization of women's rights, their participation in economy as workers and customers and their ability to be managers of their home. It has been postulated that it leads to decreased efficiency and productivity as such women were probably be more unemployed, experience job turnover and have negative impact on job performance as they cannot fully participate in income generating activities.<sup>51</sup> Any projects cannot empower women if their minds and bodies are being abused and without empowerment they cannot share in the development process.

The WHO in its latest Report has also reaffirmed it as “*The social and economic costs of intimate partner and sexual violence are enormous and have ripple effects throughout society. Women may suffer isolation, inability to work, loss of wages, lack of participation in regular activities and limited ability to care for themselves and their children.*”<sup>52</sup> Therefore, if the state and market want women to be productive individuals then they have to address this issue the costs of which are too high at the household level and also at macroeconomic level.<sup>53</sup>

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<sup>48</sup>Coomaraswamy, Radhika, “Human Security and Gender Violence,” *Economic and Political Weekly*, October 29, pp. 4729-4736 at p. 4734.

<sup>49</sup> *Supra* note 44 at p. 64.

<sup>50</sup>*Supra* note 47.

<sup>51</sup> *Supra* note 48 at p. 4734.

<sup>52</sup>*Supra* note 47.

<sup>53</sup>Suneetha, A. and Vasudha Nagaraj. “Dealing with Domestic Violence towards Complicating the Rights Discourse,” *Indian Journal of Gender Studies* Vol. 17, 2010 at p. 455, Downloaded from [ijg.sagepub.com](http://ijg.sagepub.com) at Delhi University Library System on December 6, 2013.

## 11. INTERNATIONAL AND NATIONAL REPORTS ON INCIDENCE OF DOMESTIC VIOLENCE

### 11.1 International Reports

There are many International Reports and studies that documented about the widespread prevalence of domestic violence in all the societies of the world.<sup>54</sup> In 2002, the WHO published a comprehensive world report on VAW and health with the aid of 160 experts from all over the world.<sup>55</sup> Another Report was also prepared by the WHO in 2005<sup>56</sup> that was based on interviews of 24,000 women in 10 countries (*India was not included*).<sup>57</sup>

The UN Women, its latest Report<sup>58</sup> has provided shocking statistics regarding incidence of domestic violence all over the world. It says, “According to a 2013 global review of available data, 35% women worldwide have experienced either physical and/or sexual intimate partner violence or non-partner sexual violence. However, some national violence studies show that up to 70% women have experienced physical and/or sexual violence in their lifetime from an intimate partner;”<sup>59</sup> It is estimated that of all women killed in 2012, almost half were killed by intimate partners or family members;<sup>60</sup> More often than not, cases of violence against women go unreported.<sup>61</sup> Among ever-married girls, current and/or former intimate partners are the most commonly reported perpetrators of physical violence in all the countries with available

<sup>54</sup>“European Women's Lobby, *Unveiling the Hidden Data on Domestic Violence in the European Union* (Brussels: European Women's Lobby, 1999); Council of Europe, *Violence against Women in Europe* (Brussels: European Union, Parliamentary Assembly, 2000); R.W. Summers and A.M. Hoffman, *Domestic Violence: A Global View* (Westport, CT: Greenwood Press, 2002); World Health Organization, *World Report on Violence and Health* (Geneva: World Health Organization, 2002); World Health Organization, *WHO Multi-Country Study on Women's Health and Domestic Violence against Women* (Geneva: World Health Organization, 2005); and United Nations Division for the Advancement of Women, *Violence against Women in Brazil: Overview, Gaps and Challenges* (New York: United Nations, 2005).”

<sup>55</sup>It says that “in 48 population-based surveys from around the world, between 10% to 69% of women reported being physically assaulted by an intimate male partner at some point in their lives.” *Supra* note 49 at p. 89.

<sup>56</sup> WHO, “*World Report on Multi-Country Study on Women's Health and Domestic Violence against Women*,” World Health Organization, 2005 at p. XIII.

<sup>57</sup> It was found that “violence by a male intimate partner (also called ‘domestic violence’) is widespread in all of the countries included in the Study ... For ever-partnered women, the range of lifetime prevalence of physical or sexual violence, or both, by an intimate partner was 15% to 71%.” It also stated that “the proportion of women reporting either sexual or physical violence, or both, by a partner ranged from 15% (Japanese cities) to 71% (Ethiopian provinces), with most sites falling between 29% and 62%.” *Id.* at p. 28.

<sup>58</sup>UN Women, *Ending Violence Against Women, Facts and Figures: Ending Violence against Women, A pandemic in diverse forms*,” Accessed on Feb 02, 2016: <http://www.unwomen.org/en/what-we-do/ending-violence-against-women/facts-and-figures>

<sup>59</sup>World Health Organization, *Global and Regional Estimates of Violence against Women*, [http://apps.who.int/iris/bitstream/10665/85239/1/9789241564625\\_eng.pdf](http://apps.who.int/iris/bitstream/10665/85239/1/9789241564625_eng.pdf) at p. 2. For individual country information, see full compilation of data in UN Women, 2012, *Violence against Women Prevalence Data: Surveys by Country*.

<sup>60</sup>UNODC *Global Study on Homicide*, 2013, [http://www.unodc.org/documents/gsh/pdfs/2014\\_GLOBAL\\_HOMICIDE\\_BOOK\\_web.pdf](http://www.unodc.org/documents/gsh/pdfs/2014_GLOBAL_HOMICIDE_BOOK_web.pdf).

<sup>61</sup> Violence against women: an EU-wide survey, European Union, 2014, Foreword, p. 3.

*data and around 120 million girls worldwide (slightly more than 1 in 10) have experienced forced intercourse or other forced sexual acts at some point in their lives.<sup>62</sup>*

As per the Report<sup>63</sup> of the UN Secretary General's Campaign, *"Up to 7 in 10 women around the world experience physical and/or sexual violence at some point in their lifetime; 603 million women live in countries where domestic violence is not yet considered a crime; and as many as 1 in 4 women experience physical or sexual violence during pregnancy. The most common form of violence experienced by women globally is physical violence inflicted by an intimate partner, with women beaten, coerced into sex or otherwise abused.<sup>64</sup> In Australia, Canada, and Israel 40% to 70% female murder victims were killed by their partners, according to the WHO.<sup>65</sup> In the United States, one-third of women murdered each year are killed by intimate partners. In India, 22 women were killed each day in dowry-related murders in 2007."<sup>66</sup>*

As per WHO Media Centre Report,<sup>67</sup> *"VAW - particularly intimate partner violence and sexual violence against women - are major public health problems and violations of women's human rights. On average, 30% of women who have been in a relationship report that they have experienced some form of physical or sexual violence by their partner. A more recent analysis of WHO with the London School of Hygiene and Tropical Medicine and the Medical Research Council, based on existing data from over 80 countries, found that globally 35% women have experienced either physical and/or sexual intimate partner violence or non-partner sexual violence. Most of this violence is intimate partner violence."*

### 11.2 National Reports

As per Indian feminists VAW is largely underreported due to unwillingness or fear on the part of women but still there is a tremendous rise in domestic violence cases even in the Indian official documents.<sup>68</sup> The Ministry of Health & Family Welfare of Government of India

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<sup>62</sup>UNICEF, Hidden in Plain Sight: A Statistical Analysis of Violence against Children, 2014, [http://www.unicef.org/publications/files/Hidden\\_in\\_plain\\_sight\\_statistical\\_analysis\\_Summary\\_EN\\_2\\_Sept\\_2014.pdf](http://www.unicef.org/publications/files/Hidden_in_plain_sight_statistical_analysis_Summary_EN_2_Sept_2014.pdf).

<sup>63</sup>Supra note 5.

<sup>64</sup>Supra note 46.

<sup>65</sup>United Nations Statistics Division, (2010): *The World's Women 2010: Trends and Statistics*, p. 127 United Nations Publication ST/ESA/STAT/SER.K/19.

<sup>66</sup>Supra note 5.

<sup>67</sup>Supra note 47.

<sup>68</sup>In 1999, a study was conducted by "the International Center for Research on Women and the Center for Development and Population Activities" and funded by "India and the United States Agency for International Development (USAID)." It was based on 3 empirical studies locally conducted by "the Gujarat Institute of Development Studies, the Tata Institute of Social Sciences in Mumbai, and the Research Center for Women's Studies in Mumbai." The study observed that "physical abuse of Indian women is quite high, ranging from 22 percent to 60 percent." International Center for Research on Women (ICRW) and the Center for Development

released the final report of National Family Health Survey (NFHS-3), 2005–06 in 2007.<sup>69</sup> The Ministry claimed that the report contained a complete picture of health and well-being of India's people<sup>70</sup> as it was based on “interviews of 2,30,000 women (between the ages 15 and 49) and men (between the ages 15 and 54) from different states of India. The study reveals that the experience of spousal violence ranges from a low of 6% in Himachal Pradesh to a high of 59% in Bihar.”<sup>71</sup> The Survey depicts that “one-third of women between 15-49 have experienced physical violence and about 1 in 10 has experienced sexual violence make it total 35%. Married women are more likely to experience physical/sexual violence by husbands than by anyone else. Slapping is the most common act of physical violence by husbands as per 34% of married women. 36% women who have experienced physical/sexual violence reported having injuries including cuts, bruises or aches. 16% married women have experienced emotional violence by their husband however, only 1% have ever initiated violence against their husband.”<sup>72</sup>

It further depicts that “49% women in the poorest household experienced spousal physical/sexual violence and 18% in the wealthier households. 46% illiterate married women have experienced spousal violence; similarly, 47% whose husbands are illiterate have experienced spousal violence. 12% of married women with 12 or more years of education have experienced spousal violence, compared with 21% of married women whose husbands have 12 or more years of education. It means that women's own education reduces their likelihood of experiencing spousal violence more than their husband's education.”<sup>73</sup>

It also depicts that “the cycle of domestic violence is repeated across generations. 60% women whose mothers were beaten by their fathers experienced violence and 30% women whose mothers were not beaten experienced it. 54% women and 51% men agree that it is justifiable for a husband to beat his wife under some circumstances e.g. when the wife disrespects her in-laws and neglect of the house or children. 16% never married women have experienced physical violence since they were 15 years of age, generally by a parent, a sibling, or a teacher. 1% of never married women report having ever been sexually abused by anyone out of which 27% say that the perpetrator was a relative.”<sup>74</sup>

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and Population Activities (CEDPA), *Domestic Violence in India: A Summary Report of Three Studies* (Washington, DC: International Center for Research on Women, 1999).

<sup>69</sup>The latest National Family Health Survey 2015-16 is due to be released in full.

<sup>70</sup>Government of India, “Final Report of National Family Health Survey, 2007,” Ministry of Health and Family Welfare, Delhi at p. 1.

<sup>71</sup>See Chapter 15- Domestic Violence of National Family and Health Survey, (NFHS-3), 2005-06, pp. 493-524, Accessed on Sep 10, 2016: [http://pdf.usaid.gov/pdf\\_docs/Pnadm385.pdf](http://pdf.usaid.gov/pdf_docs/Pnadm385.pdf)

<sup>72</sup>*Id.*

<sup>73</sup>*Id.*

<sup>74</sup>*Id.*

The National Crime Record Bureau, Government of India shows in its latest Report<sup>75</sup> that in 2015, the cases of cruelty against married women u/s 498-A have increased by 18.7%, cases of dowry death have increased by 1.3% and cases under Dowry Prohibition Act, 1961 have increased by 1.6%.<sup>76</sup> The Report of 2014 has included domestic violence for the first time and reported total 426 cases with rate of 0.1 during 2013. Kerala (140 cases) followed by Bihar (112 cases), Uttar Pradesh (66 cases), Madhya Pradesh (53 cases) and Rajasthan (17 cases) have reported the maximum such cases during 2014.<sup>77</sup> The Report of 2015 has shown 461 cases in 2014 and 468 cases in 2015 with 0.1% increase.<sup>78</sup> These are the two prominent official surveys in India which clearly suggest that albeit several developmental activities including enacting of stringent laws to protect women since independence, there is hardly any significant change regarding occurrences of VAW. However, it is also claimed by some that increase in domestic violence cases is actually due to increasing reportage because of various positive factors.<sup>79</sup>

## 12. CONCLUSION

Violence against women is a world phenomenon and it operates as a means to maintain and reinforce women's subordination. Therefore, movements to address and remove this evil started all over the world resulting in gradual awareness about the human rights issues and pressurizing the international community especially the UN to take many initiatives in this regard.<sup>80</sup> These international documents emphasized that women also need to enjoy a life free from violence in both public and private spheres. They also directed all State parties to take immediate steps to control and eradicate this evil either by modifying the existing laws comprehensively to remove VAW or enact new laws in this regard. Model legislations had also been prepared and provided to all the State parties to follow it in law making process.

Many countries including India enacted legislations on that basis prohibiting domestic violence and protecting women from multiple manifestations of its occurrence.<sup>81</sup> However, its implementation is not uniform across the country due to lack of infrastructure, requisite

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<sup>75</sup>National Crime Records Bureau of India, "Crime in India, 2015," Accessed on Aug 02, 2016: <http://ncrb.gov.in>

<sup>76</sup>*Id.* at pp. 153, 157 – 158.

<sup>77</sup>National Crime Records Bureau of India, "Crime in India, 2014," Accessed on Aug 02, 2016: <http://ncrb.gov.in>, at p. 91.

<sup>78</sup>*Supra* note 75 at p. 158.

<sup>79</sup>Ghosh, Biswajit, "How does the Legal Framework protect Victims of Dowry and Domestic Violence in India? A Critical Review," *Aggression and Violent Behaviour*, Vol. 18, Issue 4, July–August 2013 at pp. 409–416.

<sup>80</sup>Recommendation 19 issued by the Committee on Convention on the Elimination of Discrimination against Women and the UN Declaration on Elimination of Violence against Women

<sup>81</sup>The Protection of Women from Domestic Violence Act, 2005

functionaries, funds and facilities. The newly emerging international standards are still very aspiring in content but the reality on the ground has not changed significantly.<sup>82</sup> Thus merely enacting laws cannot provide justice to the victims in a patriarchal orthodox society and the State has to provide all requisites to implement it. Lots of funds, personnel, and courts are required to implement the law as expected. Further, what is more important is the intention of the State to implement it.

The other important problem is the internalization of socially reinforced ideology of inferiority of women by society as well as by most women. Thus, if the State is considerate about protecting women at home, it should create appropriate institutions and mechanisms, with proper monitoring, to realize the desired aim of violence free homes. In addition, it is to generate awareness about the law and inspire people to abide by the laws apart from improving the infrastructure comprehensively for the justice delivery system. Nevertheless, it is true that the law does ensure that women are not completely at the receiving end but have at least some weapon to fight back.

Ultimately, the really significant combat against domestic violence is social rather than legal and can be fought only if proactive and holistic efforts are put in place at all levels of the social structure. It appears that prevalence of domestic violence is fewer where women are better educated and get married at a later age. Therefore, there must be a comprehensive scheme of education for females to “not only make them aware of their rights but also to pave the way for their financial independence and uproot the self-perpetuating sense of inferiority that has seeped so deep into their mindset.” In addition, gender sensitive education must be provided for the males. Further, to give them self-confidence, they should be provided with the opportunity of vocational training leading to the skill development, self-empowerment or employment.

Dissemination of information is essential as most of the women have to face domestic violence because they are unaware of available avenues, services, legal provisions and agencies working in this regard. Public awareness programmes must be very cautiously imagined, deliberated and coherently oriented to ensure maximum outreach. Moreover, engaging men and community in promoting healthy and meaningful dialogues regarding the impact of

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<sup>82</sup>It was observed that “while more and more states enact legislation to address D.V., many of the elements of the model framework set out in the UN Handbook, including implementation, monitoring and evaluation, prevention programs, and protection and support initiatives, are not being realized.” United Nations, “*Handbook for Legislation on Violence against Women*,” Department of Economic and Social Affairs Division for the Advancement of Women, New York, 2010, Accessed on Sep 10, 2016: <http://www.un.org/womenwatch/daw/vaw/handbook/Handbook%20for%20legislation%20on%20violence%20against%20women.pdf>

domestic violence would result in increased awareness and sensitivity. In the present milieu, woman who suffers domestic violence is looked at as a pitiable figure, a victim, thus there must be a shift in perception to treat her as a survivor to come forward to report the incidence and protest against it.

It is difficult in rural areas to approach the court thus to reduce prevalence of domestic violence there should be formation of Women's group to minimize seclusion. There must be strict enforcement of existing laws relating to the age of marriage. Social reforms must be encouraged and awareness at all socio-economic levels in society must be spread in order to provide holistic solution to the problem. The political and economic initiatives should be gender sensitive and the networks among organizations, activists, and state officers need to be strengthened. Gender sensitivity training through workshops and seminars must be conducted for all professionals, organizations, and agencies serving women and children. Community participation, its development schemes, and women's self-help collectives are very important in this regard. Therefore, a combination of social and legal reforms would be the ideal solution for eradication of the evil of domestic violence from our society.

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