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# CHAIRPERSON'S MESSAGE

The current issue of the Journal of Indian Research carries several papers on international economy, banking sector and social spending. Jahangir Ahmad Khan from Central University of Gujarat has examined the Investor State Dispute Settlement (ISDS) mechanism in Bilateral Investment Treaties (BITs) in his paper, “*An Empirical Analysis of Investor State Dispute Settlement Mechanism: A Case Study of Bilateral Investment*”. The author argues that ISDS was initially created to depoliticise the investment dispute settlement mechanism. However, in the actual practice, this system has flaws like confidentiality, inconsistency and unfairness. Some critics have equated ISDS as a transfer of sovereignty to companies. Vedanta Resources PLC has filed a cases against India for a sum of \$3 bn in 2016 under India-UK BIT(1994). Though, India has amended its BIT regime but there was not substantial change in its ISDS provision, and no respite appears possible in such a skewed system that favours the MNCs and the richer North. Najish and Afroz Ahmad have discussed about post-BREXIT India-EU relationship. Authors conclude that as a rising economic power with immense scope in the European market and as an important player in counter-terrorism with a presence of strong Indian diaspora in Europe, India would continue to vie for heightened significance to EU in the near future.

Kokila Gupta from Mewar University has co-authored the survey on customer satisfaction of services with Axis Bank. They found that bank requires new strategies to attract customers for seeking loans. Geeta Ozwald Menezes has evaluated Mid-Day Meal Programme (MDMP) with specific reference to Mumbai's municipal schools. She concludes that MDMP has delivered to a great extent on school participation, especially among girls and marginalized sections of the society, and fostered gender and social equality in the context of India's rigid social milieu. Above all, its mission to reduce classroom hunger and provide nutrition to school going children is above reproach.

We are glad to share the news that the Journal of Indian Research is UGC-recognized journal. It is just a small team of research staff who are carrying out this immense task of bringing out quarterly peer-reviewed journal, while maintaining quality and widening the geographical expanse of contributors. We have been receiving quality papers from all over the world now and hope to enhance the standard in the coming issues.

On the eve of Diwali, I wish the readers auspicious time ahead. Just like biological clock within human bodies, festivals are the social clocks. We can enrich our heritage by adopting these social clocks. Festivities enthuse us with zeal to explore further possibilities during next cycle with greater intensity. Hopefully this issue of Journal would add to this zeal of scholars.



**Dr. Ashok Kumar Gadiya**

## EDITORIAL

We are ready with another interesting issue of the Journal. We are carrying papers of scholars from our own Mewar University, Central University of Gujarat, Jawaharlal Nehru University, Central University of South Bihar, University of Kashmir, Srinagar; Mithibai College of Arts, Mumbai; CCS University, Meerut. Thus, we are able to bring together scholars from north and south, east and west. Scholarship cannot bloom if there are isolated communities of scholarship. We are into Network Age. Network is the buzzword everywhere. Astrophysicists are working on Network cosmology, engineers and architects are designing networks of sensor- based smart technology and management sciences grapple with network marketing.

But, by creating silos of academic communities, can we ever aspire to become a global knowledge power? India had world-famous centre of learning like Taxila, Nalanda and Vikramshila. Why was it so? Because they allowed synthesis of knowledge. They allowed scholars from different regions to come together and exchange their thoughts in a liberal atmosphere. In the current issue, we are carrying a paper by two scholars from Central University of South Bihar, Gaya on Vikramshila University. It was one of the major centers of high learning in India during medieval age. Acharya Buddha Jnanapada, was appointed as the first Acharya by King Dharmapala(r.774-806) for ordination at Vikramshila. Vairochana Rakshita, Jetari, Prajnakaramati, Ratnakarasanti, Jnana Sri, Ratnavajara, Vagishvarakirti, Acharya Atisha, Abhyankargupta, Tathagatrakshita, and Manjusri were remarkable scholars who thrived in Vikramshila University. The Panditas would be invited to Java and Tibet, Pegu and Ceylon and across Indic region for spreading the light of their wisdom. But, where do we stand today? We no longer have any university in the top 100 universities of the world!

We drumbeat about our achievements in mythic past and ignore the efforts, devotion and teamwork required today to realize our potential as a prominent place of learning. We are enamoured by the optics of academics and neglect the commitment required for establishing new theories. We hardly have organic and/or serious intellectuals of global acclaim. Rather than harping upon our contribution to the world knowledge system, we should begin from a particular point.

Since India is known for its yantras and mandalas, which are geometric design used during propitiation rituals, let from these sacred designs new mathematics and new engineering arise. Sriyantra, the king among Hindu Yantras is built upon triangles and the Golden number Phi, while the Kalacakra Mandala, the king of Buddhist mandalas is built upon the quadrilaterals (squares, trapezoids and so on) and Pi. If isosceles

triangles are primary building blocks of the Sriyantra, the trisosceles trapezia are the building block of Kalacakra mandala. Both geometric designs significantly appear as expression of continued fraction. In recent years, the mathematics of Metallic Means has been developed by Latin American mathematicians and is increasingly adopted by the universities world-wide since these metallic means, which are ratio of irrational numbers that can be expressed by continued fractions, are found to be in abundance in aesthetics of nature. Though, phi is well known as the Golden number, it has been found to be a mathematical constant of the simplest form of the quadratic equation in the form of  $x^2 - px - q = 0$ . When  $p=q=1$ , the value of  $x$  is that of phi. There would be different means for varying value of  $p$ , if  $q$  is kept at the value of 1. Mathematicians have identified silver, bronze, copper and other higher degree means. These mathematical constants are becoming numerical celebrities, thanks to their presence in complex design in nature and human creations. In August this year, the science journal, *Nature*, has reported about self-similar bronze-mean hexagonal quasicrystals. The symmetry and the aperiodicity of this design emerge from the irrational ratio of two sides. Sriyantra appears to be such a symmetrical, aperiodic representation of mathematical equation with solution approximating the Bronze Mean.

We boast of our mathematicians from yore. We had mathematical wizards like Srinivas Ramanujan as recently as last century who was master of the number theory. Where have our mathematicians gone? Why the geometrical designs traditionally drawn have yet not been deciphered rationally? Once these designs are deciphered, the same can be adopted in material engineering and we can have a perfect fusion of tradition and modern.

Today soft matter sciences are going to be the cutting edge technology. Much of soft matter system follows metallic means rather than magical numbers like  $e$  and  $\pi$ . Innovations should crop from our own knowledge base. But, we cannot close our window and stop the fresh breeze of ideas from scintillating our minds. The chimerization of knowledge that was practised in the precinct of Nalanda and Vikramshila is the leitmotif of the Network Society. Let there be epistemic dialogue of old and new, east and west, north and south, among different disciplines as well as between empirical science and pragya. Only the edifice of dialogue can sustain the Hope of better future for the mankind.

— **Niraj Kumar**  
Honorary Editor

# AN EMPIRICAL ANALYSIS OF INVESTOR STATE DISPUTE SETTLEMENT MECHANISM: A CASE STUDY OF BILATERAL INVESTMENT TREATIES

*Jahangir Ahmad Khan\**

## ABSTRACT

*This paper critically examines the Investor State Dispute Settlement (ISDS) mechanism in Bilateral Investment Treaties (BITs). After brief introduction of the ISDS, an overview of ISDS case statistics has been presented. However, the problems with international arbitration system under ISDS are the main focus of the paper. ISDS was initially created to depoliticise the investment dispute settlement mechanism. However, in the actual practice, this system came under strong criticism for its flaws like confidentiality, inconsistency and unfairness. Although, several alternate mechanisms at national and regional level were proposed, however, results are insufficient. ISDS system's roots in private commercial dispute settlement, where secrecy is justified for the sake of business has been explored by other commentators. Some have equated ISDS as a transfer of sovereignty to companies. The paper examines in detail various critique of the ISDS system alongwith few case examples to highlight the problems associated with ISDS system. The paper also suggests available alternate mechanism for the settlement of international investment disputes.*

**Keywords:** *Amco Asia Corp. v. Republic of Indonesia* case, Bilateral Investment Treaties (BITs), Cooperation and Facilitation of Investment Agreement (CFIA), Investor State Dispute Settlement (ISDS), *Ronald S. Lauder v. The Czech Republic* case, Trans-Pacific Partnership (TPP), UNCTAD.

## INTRODUCTION

*“Arbitration process is often one-sided, favouring well-heeled corporations over poor countries, and must be made fairer than it is today. Unlike trials, arbitrations take place in secret. There is no room in the process to hear people who might be hurt.”<sup>1</sup>*

Bilateral Investment Treaties (BITs) are the main legal instruments for protecting and promoting foreign direct investment (FDI) worldwide. These treaties provide number of

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investor friendly clauses to attract investors. However, one of the most contentious provisions the BITs provide is ISDS. While introducing the ISDS, Eberhardt(2016)<sup>2</sup> writes *“In an old fable, a wolf dresses in sheepskin to deceive the shepherd who indeed locks the hungry wolf up with the sheep. In global trade policies, the equivalent of the wolf is called Investor-State Dispute Settlement or ISDS, a special tool for multinational companies to bully and squeeze money out of governments.”* ISDS was created to function as a de-politicized forum for settlement of disputes and to offer other advantages such as possibly cheaper, swifter, and fairer than other dispute settlement mechanisms. On ground, however, the actual working of ISDS has led to fears about systemic flaws in the system. Majority disputes in ISDS involve issues of public policy as actions challenged by foreign investors that increasingly include matters such as public health, environmental protection, human rights, labour rights or other development related measures (UNCTAD, 2014c). According to Gaukrodger and Gordon (2012), till the mid-twentieth century, prior to the mechanism of the ISDS system, investment related disputes were decided by direct dialogue between investor-and State or proceedings in domestic courts or were handled via diplomatic procedures or, at times, by the use or threat of armed force (Johnson and Gimblett, 2011). Provisions of ISDS have been a part of the International Investment Agreements (IIAs) for decades. Most of the BITs provide ISDS mechanism. Analysts such as Eberhardt and Cecilia (2012) argue that, under investment disputes MNCs can litigate sovereign governments if the government has done something that the MNC conceived damaging to its profits. Author further elaborate that historically, ‘BITs were put in place by Western countries to protect their investors when they invested abroad.’

## **WESTERN PERSPECTIVE ON ISDS**

The western idea of ISDS as a free, fair and autonomous system for the solution of disputes between MNCs and sovereign governments is one of the main justifications for a mechanism which has taken huge amount of taxpayers’ money and challenges the ability of independent governments to act in the people’s interest. Similarly, Schill (2015) points out that “ISDS is looked as depoliticizing international investment disputes and leading to improving the rule of law in State-Investor relations. However, with the abrupt rise in investment arbitrations particularly during the last decade, ISDS has been facing a significant criticism, including the withdrawal of some countries from it and starting of worldwide debates to reform or revoke ISDS mechanism. Frequent concerns include inconsistencies in investment arbitration decision making, deficient regard by arbitration tribunals to the host country’s right to regulate in inferring and interpreting treaty texts, concerns of bias of ISDS system in favour of foreign companies, issues of lack of impartiality and independence of arbitrators, mechanism to control IATs and to guarantee impartiality of their decisions, third party funding, and very expensive resolution of disputes.”

Investor-State disputes filed under ISDS may challenge essential laws and regulations of any government, such as those guarding the health and environment, governing the essential services, addressing social, political and economic welfare issues and governing the use of domestic natural resources. The disputes have also major financial effects on the public

money (Osterwalder and Johnson 2011). Similarly, analysts like Wellhausen (2016) argues that one of the exceptional features of ISDS is that only foreign investors can file arbitration against State, *whereas* host State can't do this.

There are presently more than 3,286 IIAs (2,928 BITs and 358 other IIAs) (UNCTAD 2016). By the end of October 2016, there were 739 known investor-state dispute cases, the majority of these cases are filed by companies from developed countries against countries from developing South.<sup>3</sup> However, most of the arbitration institutions are subjected to confidentiality, so the actual number of disputes filed is likely to be much greater. The exact passage of an ISDS case depends on the relevant institution and the rules conducting the case (Eberhardt and Cecilia 2012).

## **INVESTMENT ARBITRATION INSTITUTIONS**

International arbitration for investment disputes under ISDS starts with a foreign investor's notice of arbitration to a host State. During the proceedings, the parties, the State and the investor are assisted by counsel. Both the parties mutually select the tribunal for arbitration. Generally each party selects one arbitrator and both mutually appoint a third to serve as tribunal chairman. Proceedings may last for years. However, a very limited or no information is shared with the public, sometimes even public remains unaware, of the fact that a case is going on. Finally, arbitrators decide the size and type of the remedy and allocate the legal expenses of the proceedings (Eberhardt and Cecilia 2012). However, most of the modern BITs mentions more than one dispute settlement instrument.<sup>4</sup> Some BITs mention the arbitration under the Arbitration Rules of The United Nations Commission on International Trade Law (UNCITRAL)<sup>5</sup> either alone or together with the references to the International Centre for Settlement of Investment Disputes (ICSID) arbitration, a small number of BITs also refer to the arbitration of the Stockholm Chamber of Commerce (SCC), International Chamber of Commerce (ICC),<sup>6</sup> or some other regional or international arbitration (Begic 2005).<sup>7</sup>

There are number of small and big regional and international investment arbitration institutions. However, majority of disputes under ISDS are administered by the World Bank's International Centre for Settlement of Investment Disputes (ICSID) in Washington. The second most used rules are those of the UNCITRAL. The Permanent Court of Arbitration (PCA) in The Hague, the London Court of International Arbitration (LCIA), the Cairo Regional Centre for International Commercial Arbitration (CRCICA) as well as the Stockholm Chamber of Commerce (SCC), and the Paris-based International Chamber of Commerce (ICC) also regularly handle investment disputes (Eberhardt and Cecilia 2012). The UNCITRAL Rules, which are frequently used rules after the ICSID rules, are not for a specific institution as UNCITRAL itself does not arbitrate disputes cases but only elaborates rules. Therefore disputes under the UNCITRAL rules are either administered on an ad hoc basis or conducted by an institution like PCA, ICSID or the SCC (Osterwalder and Diana 2014). By the end of 2015, the majority of known ISDS cases have been brought under the ICSID (63%) ICSID Additional Facility Rules (3%),

followed by UNCITRAL Arbitration Rules (26%). Disputes brought under SCC Rules (5%) and data unavailable (3%) (UNCTAD 2016f). Before proceeding further, a brief introduction of these institutions is necessary.

### **International Centre for Settlement of Investment Disputes (ICSID)**

The ICSID was established in 1966 by the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (the ICSID Convention). The ICSID Convention was drafted by the World Bank's Executive Directors. Convention gave foreign investors the opportunity to file disputes in international arbitration tribunals. The aim of the ICSID is to provide facilities for arbitration and conciliation of investment disputes between contracting States and nationals of other contracting States in accord with the arbitration rules of Convention<sup>8</sup> (ICSID 2003). ICSID is partly financed by the World Bank (Osterwalder and Diana 2014). Dispute cases brought under the ICSID or ICSID Additional Facility Rules are always conducted by the ICSID Secretariat. Dispute arbitration under the ICSID is available if both the home State of the investor and host State are party to the Convention. Arbitration awards given under the provisions of ICSID Convention may not be reviewed, appealed or set aside by national courts of the seat of arbitration. The ICSID Additional Facility Rules can be applied when either the home State of the investor or the host State, but not both, is party to the Convention.<sup>9</sup>In such a case the Convention does not apply to the dispute case but ICSID only assists as an institution for administration of proceedings. The ICSID Additional Facility Rules are almost similar to ICSID Arbitration Rules. However, unlike ICSID awards, awards under Additional Facility can be appealed against in domestic courts arbitration place and are forced according to the New York Convention<sup>10</sup>(2014d). As of October 2016, ICSID has 151 contracting State parties. The representatives from the member states form the ICSID Administrative Council. For the approval of the ICSID Arbitration Rules and modifications thereto, the Council needs a two thirds majority of its members. President of the World Bank is the Chairman of the Council, as a default rule, he may appoint arbitrators (Osterwalder and Diana 2014). Current ICSID Regulations and Rules were amended and are effective from 10 April 2006.

### **The United Nations Commission on International Trade Law (UNCITRAL)**

The United Nations Commission on International Trade Law (UNCITRAL) was created by the United Nations General Assembly (UNGA) vide resolution 2205 (XXI) of 17 December 1966(UNCITRAL 2016). It was in 1976, that the UNCITRAL adopted its first arbitration rules, initially aimed for commercial arbitrations between private parties. UNCITRAL's has governing body (the Commission), which consists of 60 member States, elected periodically by the UNGA. Commission initiates, drafts and adopts the Amendments to the UNCITRAL Rules. Recently UNCITRAL has adopted revised Arbitration and Transparency Rules especially for the ISDS, which came in force in 2014 (Osterwalder and Diana 2014).

The Arbitration Rules of UNCITRAL were issued initially to apply to *ad hoc* arbitrations. They were, however, later on adopted, with some amendments, in many arbitration institutions, like SCC and the CRCICA. In 2006, 30 years after their adoption,

the member States of UNCITRAL decided to amend its existing rules, and new amendments were adopted in 2006 (Raouf 2012). In 2010, new rules on transparency were added to make UNCITRAL arbitration system transparent, which came into force in April 2014. However, new rules are not applicable to the treaties signed before 1 April 2014. But the transparency Rules would apply only, if the disputing parties agree, or if the relevant treaty parties have agreed after 1 April 2014 to their application (Article 1(2))(Sheppard and Coates 2014).<sup>11</sup> Unlike ICSID, cases initiated under the UNCITRAL Rules, are not conducted by UNCITRAL, since it has no institutional framework to do so.

### **The Permanent Court of Arbitration (PCA)**

The Permanent Court of Arbitration (PCA) is intergovernmental organization. It was established in 1899 for the settlement of disputes between States. The PCA has 115 member States. It has its arbitration Rules, which were amended in 2012. Its rules apply to disputes involving sovereign States, State-controlled entities, private parties and intergovernmental organizations. However, most of the cases managed by the PCA are decided under UNCITRAL Rules. The PCA is not a court in the legal sense. Rather, it is a permanent structure for arbitration tribunals established for settlement of specific disputes and similar processes. The PCA has a governing body called Administrative Council. All member states of PCA are represented in it. The functions of the council are to oversee policies and budgets of PCA (PCA 2016a).

### **The Stockholm Chamber of Commerce (SCC)**

The Stockholm Chamber of Commerce (SCC) Arbitration Institute is a non-governmental organisation. The SCC, in 1917, established its arbitration institute to manage commercial arbitrations. The Institute has arbitration rules; amended in 2010. The Institute administers arbitral proceedings. SCC has the Secretariat and a Board, a Secretary General is the head of Secretariat, with a staff of nine people. The cases in SCC are allotted to one of three divisions, each consisting of a legal counsel and a case administrator. The Board is the governing body, and has 15 to 16 members.<sup>12</sup> The function of the Board is to make decisions including decisions regarding appointment of arbitrators, *prima facie* jurisdiction, costs of the arbitration and challenge to arbitrators (SCC 2016c).

### **The International Chamber of Commerce (ICC)**

The International Chamber of Commerce (ICC) has International Court of Arbitration, that came into being in 1923. It is ICC's independent arbitral body and has its Arbitral Rules. It has two bodies, The Court and the ICC Executive Board, sharing governing powers over arbitral proceedings, composed of individuals with a private business or legal background. The ICC Arbitration Rules were amended in 2012 (ICC 2016). The ICC court is not a court in pure judicial as it does not resolve disputes itself. It facilitates the resolution of disputes in accordance with the ICC Arbitration Rules (ICC 2013). All cases brought under the ICC Rules have to be conducted by the ICC International Arbitration Court, as stated in its Rules.<sup>13</sup> The ICC does not keep public register of actual number of cases. The Court consists of over hundred individuals, acting as the governing body. The Executive Board consists of 20 persons, having some decision-making powers with regard to the Arbitration Rules.

While the Court suggests amendments to the arbitration rules, the approving powers are with the Executive Board (Osterwalder and Diana 2014).

### **The London Court of International Arbitration (LCIA)**

The London Court of International Arbitration (LCIA) was established in 1892. It is also a private institution set to deal with investment arbitration. The LCIA is an organisation with a Board, a Secretariat and Arbitration Court with up to 35 members. The LCIA has its Arbitration rules, amended in 2014. New LCIA Arbitration Rules 2014 had brought new changes like, the provision of emergency arbitrator appointments. LCIA does not work like a court in judicial terms to resolve disputes. Its main tasks are appointing tribunals, controlling costs and determining challenges to arbitrators (Osterwalder and Diana 2014). It also acts as administrator in cases under UNCITRAL-rules. The Secretariat looks after the day-to-day management of all cases referred for arbitration (LCIA 2016). Functions of the LCIA Court include arbitrator's selection and removal and the issues related to arbitration costs (Gerbay 2013).

### **The Cairo Regional Centre for International Commercial Arbitration (CRCICA)**

The Cairo Regional Centre for International Commercial Arbitration (CRCICA) was founded in 1979 by the Egyptian Government and the Asian African Legal Consultative Committee. The institution is composite of a Board of Trustees with 10 to 30 African and Asian personalities as its members and an Advisory Committee. The cases filed with the CRCICA are usually of commercial in nature and mostly involve claimants from African and Asian countries (CRCICA 2012). The CRCICA has its Arbitration Rules amended in 2011. However, mainly active in commercial arbitration, the CRCICA and LCIA play only a minimal role in investment arbitration (Osterwalder and Diana 2014). The CRCICA, since its formation, adopts UNCITRAL Arbitration Rules of 1976, with minor modifications (CRCICA 1987). CRCICA in 1998, 2000, 2002 and 2007 had amended its Arbitration Rules. Currently, CRCICA is adopting new 2010 UNCITRAL Arbitration Rules (CRCICA 2016; Shentenawi 2012).

## **AN OVERVIEW OF IIA CASES UNDER ISDS**

According to the UNCTAD data, the total number of known ISDS cases based on BITs and other investment agreements rose to 739 by the end of October 2016. In 2015 alone, at least 70 investment-based ISDS disputes were filed under different arbitration institutions and different arbitration rules (UNCTAD 2016f). Particularly, since the 1990s, known investment related disputes have increased rapidly. In 1997, there were nearly 19 known cases filed against States. By 2007, the number reached about 300 cases and it is 739 in October 2016. However, according to Osterwalder and Diana (2014), these figures are only of known cases, collected from different public sources. The actual number of cases is likely to be higher, given that a number of arbitration institutions do not have public access or they do not maintain public registries of cases. Table 1 gives an overview of ISDS arbitration institutions and case filed, as on October 2016.

**Table 1: Overview of ISDS cases (October 2016)**

<b>Name of institution</b>	<b>No. of cases as administering institution</b>	<b>No. of cases as arbitration rule</b>
ICSID (International Centre for Settlement of Investment Disputes)	480	413
PCA (Permanent Court of Arbitration)	88	0
SCC (Stockholm Chamber of Commerce)	36	35
ICC (International Chamber of Commerce)	6	6
LCIA (London Court of International Arbitration)	5	1
CRCICA (Cairo Regional Centre for International Commercial Arbitration)	2	1
UNCITRAL	Not an administering institution	224
ICSID Additional Facility	Not an administering institution	47
Others	3	3

**Source:** UNCTAD (2016d); author's self-analysis.

ICSID is most used, both as administering institution and as arbitration rule in investment disputes. PCA managed a total of 88 investment treaty cases, among those, basic information such as names of the disputing parties of only 26 cases were made public (PCA 2016b). In 1993, SCC recorded its first investment dispute. Presently, the SCC reported that about 36 BIT-based disputes cases were registered with the institution under its rules. The LCIA registered a total of five cases by the end of Oct 2016. However, according to UNCTAD (2016) data, among five, only one case was conducted under LCIA rules.<sup>14</sup> Since LCIA, does not make any information public, the actual information on the number of cases filed under it remains unknown (Osterwalder and Diana 2014). Two BIT related cases were brought under the CRCICA rules in 2000 and 2011.<sup>15</sup>

### **PROBLEMS WITH ISDS SYSTEM**

The UNCTAD (2013) in its *World Investment Report* notes that the working of ISDS has shown grave deficiencies. Crisis are related to legitimacy, absence of consistency and inaccurate decisions, issues of transparency, the way of arbitrator appointment, arbitrator's impartiality and independence and huge financial stakes. According to Eberhardt and Olivet (2012), 'ISDS is a partial system that puts the rights of investors over common interests, allowing foreign investors to bypass domestic legal mechanism of the host countries, and placing their self-interests above policy decisions and legal systems of sovereign governments.'<sup>16</sup> Only investors can initiate litigation against host States through the ISDS system, making an inequality in the system and discrimination to domestic investors. Author further elaborate that 'arbitrators are

not free and fair, each arbitrator gets huge amount on a case-to-case system, and arbitrators may also act as legal consultants for the foreign investors when not handling a case'. Once an arbitration tribunal has given a decision, there is no system of appeal or revision for losing party. Huge compensations can be demanded from States that are judged by arbitrators to have harmfully affected profit of investor (UNCTAD 2014). Analysts such as Schill (2015) have highlighted following problems of ISDS. First, the rising number of inconsistent and conflicting interpretations by IATs of agreed clauses of investment protection, not only under different BITs, but also in almost identical disputes initiated under the same BIT. Second, the broad-worded investment treaties pave way for IATs to expensive interpretation of formulated principles of investment treaties, which creates unpredictability and uncertainty in IAT's decision making. Third, the inadequate respect paid by some arbitration tribunals to the necessity of host States to rule and regulate in the common public interest, like to protect public health, the environment, labour standards, or to react to financial and economic emergencies. Fourth, ISDS management problems particularly the confidentiality of proceedings, the impartiality and independence of arbitrators, and the issue that dispute settlement under ISDS creates a one party-owned business, in which other-party, even if impacted, is voiceless. Fifth, the absence of instruments to guarantee 'correct' interpretations of treaty clauses in line with the intents of the contracting parties. Sixth, the large expenses and extensive length of many arbitration proceedings, including in cases that are abusive or frivolous or are clearly lacking in merits. Similarly, Wessels (2014) while commenting on ISDS says that ISDS system has some inherent defects and only solution is abolishing the system. It gives corporations equal standing to sovereign States, it places IATs above the supreme courts of countries, and it lacks a judicial feedback system. According to Kelsey and Wallach (2012), ISDS can be understood as a transfer of sovereignty to companies

Problems start within the origin of ISDS system itself, as legal basis of ISDS system is varied and complex, while various other dispute settlement instruments are fastened in well-defined treaty bases. ISDS's legal source is based on dispute resolution mechanisms or provisions contained in more than 3000 investment treaties, international conventions<sup>17</sup> and different arbitration rules. Majority of BITs offer for ISDS. There are big differences in the detail and contents of these provisions (Gaukrodger and Gordon 2012). These ambiguous provisions are interpreted by arbitrators in a very expensive manner. Analysts such as Roberts (2013) argue, that private dispute settlement system has been grafted into the public international investment law, and this according to Garcia *et al* (2015) has resulted into a non-transparent investment dispute settlement system, in which, it is impossible or very hard to know basic facts such as the name of disputing parties or the number of disputes or their results.<sup>18</sup> These issues reflect the ISDS system's roots in private commercial dispute settlement, where secrecy is justified for the sake of business. However the major and critical problems of ISDS can be summarized as under.

(i) *Confidentiality or non-Transparency*

ISDS is conducted under rules that are mostly secretive. This secrecy violates the international human rights by denying public participation and information. Confidentiality or secrecy of cases is the critical problems of ISDS (Magraw 2015). In several occasions, it is impossible or at least very hard even to know that an investment dispute has been initiated. It

prevents the States, public and investors from access to what the responsibilities set forth in investment treaties actually mean in practice. It also creates tension between the ISDS system and the fundamental right to information. In any democratic State, public has fundamental right to know, where taxpayers money is used? (Osterwalder and Johnson 2011).

Most of the investment treaties do not oblige foreign investors to make public, their intention to file a dispute in IATs. Public release of dispute cases mostly depends on the arbitration rules selected by the disputing parties. For example, when ICSID is opted as the arbitration court, the confidentiality of arbitration process is protected by Article 48(5) of ICSID Convention, "*Centre shall not publish the award without the consent of the parties*" and by ICSID Arbitration Rules (Tahyar 1986). Although the ICSID has a policy of registration of cases. However, that register includes only the name of the disputing parties, the date of case registration and a very brief description of the dispute. Similarly, if the institution like (ICC or SCC) is chosen as arbitration facility there is no rule of making any information, public. Non-institutional or adhoc arbitration rules have no prerequisite of registration (OECD 2005). UNCITRAL Rules are the most commonly used in an *ad hoc* arbitration, however, like other rules, they also have no provision for transparency as, *Article 34(5) of UNCITRAL Rules 2010* provide that it will not make awards public, unless otherwise agreed by the parties. Although UNCITRAL in 2014 adopted a set of Rules on Transparency, but these rules do not apply to cases filed under BITs existing before 1 April, 2014 unless agreed by the Parties. The majority of ISDS cases are based on pre-2014 BITs, So UNCITRAL Transparency Rules may not apply in most of cases under ISDS (Magraw 2015).

Many recently concluded treaties also remain silent on issue of transparency in proceedings. Rather, they just refer to pre-existing arbitration rules, such as those under the ICSID, the rules developed by UNCITRAL, and less frequently, those issued by the ICC, the Arbitration Institute of the SCC, and other related arbitration bodies. SCC arbitration Rules also impose an obligation of confidentiality on the tribunal and the SCC itself as the Article 45 says, "*The SCC and the Arbitral Tribunal shall maintain the confidentiality of the arbitration and the award, unless otherwise agreed by the parties*".<sup>19</sup> (Osterwalder and Johnson 2011). The ICC Arbitration Rules have a presumption of secrecy for awards and proceedings, and protect trade secrets and confidential business facts. Article 22 (3) of ICC Rules 2012 enables the arbitration tribunal to make instructions regarding confidentiality and to take due actions to protect secret information.<sup>20</sup> LCIA is also in favour of confidentiality of awards and hearings. Article 19 and 30 of the LCIA Rules 2014 has provisions to impose duties of confidentiality<sup>21</sup>(Levander 2014). According to article of 19 (4), "*All hearings shall be held in private, unless the parties agree otherwise in writing*". Also Article 30 (1) says that "*The parties undertake as a general principle to keep confidential all awards in the arbitration*", Similarly Article 30 (3) says that "*The LCIA does not publish any award or any part of an award without the prior written consent of all parties and the Arbitral Tribunal*". The simple idea is that all aspects of the arbitration proceedings, including the arguments and the final award, will be confidential. Similarly, PCA, mostly uses UNCITRAL Rules. Article 34(5) of UNCITRAL provide that it will not make awards public, unless otherwise agreed by the parties, thus follow confidentiality.

(ii) *Absence of Review or Appeal system*

Review or appeal system for awards, is almost absent under ISDS mechanism. For example, according to Article 53 (1) of ICSID Convention, the most used arbitration rule “*The award shall be binding on the parties and shall not be subject to any appeal or to any other remedy except those provided for in this Convention*”. A party can file for annulment under ICSID. However, annulment process does not determine error in the arbitration tribunal’s decision in applying the respective law. Rather, request for annulment can only be approved on errors in process of law, not in the award itself, for example, an error in the constitution or procedure of tribunal.<sup>22</sup> So annulment is not an alternate for an appeal (Wellhausen 2016). Also if an award under annulment is upheld by the annulment committee, member States of ICSID under Article 54 are obligatory to deal it as a final national judgment (Gaukrodger and Gordon 2012)<sup>23</sup>. However, according to UNCTAD (2014c) report ‘an ICSID annulment committee may not be able to correct or annul an award, even after knowing the obvious errors of law. Furthermore, annulment committees are formed on an *ad hoc* basis for each dispute, they may also arrive at inconsistent decisions, thus further weakening the predictability of investment law. The report further points that the ICSID Convention drafters intentionally chose an annulment, not appeal mechanism. This reflected their intention of finality of awards. The role of annulment committee is not to correct errors or of law, but to guard the finality of the award and also to police the procedure of award. This has created a powerful and privileged path through which investors can contest any policies of host States’.

Analysts such as Schreuer (2001) points that Article 52 requires annulment committee to turn a blind eye on a possibly erroneous decision and national laws tend to confine the grounds for review of awards.<sup>24</sup> However, under non-ICSID Convention arbitrations, awards can be challenged under the commercial arbitration system created by national law, the New York Convention and other applicable treaties. National arbitration rules provide a list of grounds on which awards can be challenged (Katia 2006). However, most of national arbitration measures offer a list of grounds for non-enforcement of awards, contained in Article V of the New York Convention: (1) *the arbitrated agreement was not valid*; (2) *denial of the losing party’s right to present its case*; (3) *award was outside the scope of arbitration*; (4) *the arbitral procedure was against parties’ agreement*; (5) *the award has been set aside*; (6) *arbitration was not needed for dispute*; (7) *enforcement of award is not against public policy*. Among these, first five grounds are related to procedural matters, and obviously do not permit national courts to appeal or review the Additional Facility awards<sup>25</sup> rather; they are mostly same as grounds for annulment provided by ICSID Convention. Although ICSID once proposed for study of feasibility of Appeals Facility, however, in 2005, the proposal was dropped by ICSID,<sup>26</sup> announcing that it was premature for such an attempt.<sup>27</sup> According to Walsh (2006), the appeal provision would increase the scope of review from procedural (as provided under annulment) to correctness of an error in award itself.

(iii) *A Very Expensive System*

Dispute settlement under the ISDS is an expensive one. A huge amount of public money is at the stake. According to UNCTAD (2014c) data, in ISDS cases, on average, expenditures, including arbitrator’s fees (which almost amount to 82% of total expenditures) and tribunal

costs are 8 million US\$ per case per party exceeding 30 million US\$ in some cases,<sup>28</sup> but particularly for developing ones, this is a major burden on public money. Even if the host State ends up winning the case, arbitration tribunals have generally refrained from asking the foreign investor to pay the respondent's expenses. Sovereign governments are ordered by arbitration tribunals, to pay million dollars of amount to MNCs. In one such case in 2006, Occidental Petroleum<sup>29</sup> won the expensive award of 1769.00 million US\$ to date. This award generated a worldwide debate (Wellhausen 2016). Similarly, in 2003, the Czech Republic paid a company an amount of 354 million US\$, (equal to their then health budget). Republic of Ecuador has paid 1.1 billion US\$ to a US based MNC (which is equal to 90% of Ecuador's social welfare budget for 2015). According to Eberhardt (2016), 95% of awards go to corporations with at least 1 billion US\$ in yearly revenue. In one dispute case, Libyan government was ordered to pay 905 million US\$ to a firm which had invested 5 million US\$ only (Eberhardt 2016). The Republic of the Philippines spent 58 million US\$ to defend two ISDS cases against a German investor – equal to pays of 12,500 teachers for one year or the immunisation for almost 38,00000 children for prevention of diseases such as tetanus, TB, polio or diphtheria (Olivet 2011). According to Scherer (2011) 'in arbitration costs, the lion's share goes into the pockets of the lawyers. It is estimated that almost 80% of all legal costs are spent on counsel'. Table 1 gives a global overview of the highest paid compensations by sovereign States to foreign investors under ISDS.

Same is the case with India. According to UNCTAD data, there are 20 known IIA cases against India as on October 2016. In one such case of *White Industries Vs India*, arbitration Tribunal ordered India to pay, (a) an amount of 4,085,180 A\$ (payable under the Award); (b) 84,000 A \$ (for the fees and expenses of the arbitrators in the ICC arbitration); (c) 500,000 A \$ (for White's costs in the ICC arbitration) (d) 86,249.82 A \$ (for its witness fees and expenses). Similarly in Dabhol case, India, according to unofficial sources, had paid almost one billion US\$ to settle issue. Table 2 gives an overview of known cases against India and amount claimed by foreign investors under ISDS. Regarding various other expenses under ISDS, Eberhardt (2016) points that 'under ICSID cases, arbitrators make 3,000 US\$ a day. In a biased arrangement where only the foreign investors can file claims, this makes a secure inducement to side with investors, because investor- favourable rulings pave the way for more proceedings and more returns in the future'.

**Table 2: Overview of Highest Compensation Paid in Investment Disputes at Global Level**

Year of initiation	Case name	IAs Used	Amount awarded (or settled for)
2011	Crystallex International Corporation v. Bolivarian Republic of Venezuela	Canada - Venezuela, Bolivarian Republic of BIT (1996)	1202.00 million US\$
2007	Venezuela Holdings B.V. and others v. Bolivarian Republic of Venezuela	Netherlands - Venezuela, Bolivarian Republic of BIT (1991)	1600.00 million US\$

2006	Occidental Petroleum Corporation and Occidental Exploration and Production Company v. Republic of Ecuador (II)	Ecuador - United States of America BIT (1993)	1769.00 million US\$
2005	Hulley Enterprises Ltd. v. Russian Federation	The Energy Charter Treaty	40000.00 million US\$
2005	Veteran Petroleum Limited v. The Russian Federation	The Energy Charter Treaty	8203.00 million US\$
2005	Yukos Universal Limited (Isle of Man) v. The Russian Federation	The Energy Charter Treaty	1846.00 million US\$

**Source:**UNCTAD 2016d, author's self-analysis.

**Table3: Overview of known ISDS cases against India  
(as on October 2016)**

Year of initiation	Case name	IIAs Used	Amount claimed by Investor or awarded by Tribunal
2016	Vedanta Resources PLC v. India	India - United Kingdom BIT (1994)	3000.00 mm US\$
2015	Cairn Energy PLC v. India	India - United Kingdom BIT (1994)	1000.00 mm US\$
2014	LDA v. India	France - India BIT (1997)	11.00 mm US\$
2013	Deutsche Telekom v. India	Germany - India BIT (1995)	1.6 mm US\$
2013	Khaitan Holdings Mauritius v. India	India - Mauritius BIT (1998)	1400.00 mm US\$
2012	Devas (Mauritius) v. Republic of India	India - Mauritius BIT (1998)	1000.00 mm US\$
2012	Tenoch Holdings v. The Republic of India	India - Russian Federation BIT (1994) Cyprus - India BIT (2002)	400.00 mm US\$
2010	White Industries v. The Republic of India	Australia - India BIT (1999)	4.00 mm US\$ Case is settled, the amount is awarded by arbitration tribunal.

2004	ABN Amro N.V. v. Republic of India	India - Netherlands BIT (1995)	42.80 mm US\$
2004	ANZEF Ltd. v. Republic of India	India - United Kingdom BIT (1994)	42.80 mm US\$
2004	BNP Paribas v. Republic of India	France - India BIT (1997)	42.80 mm US\$
2004	Credit Lyonnais v. India v. Republic of India	France - India BIT (1997)	42.80 mm US\$
2004	Credit Suisse First Boston v. Republic of India	India - Switzerland BIT (1997)	42.80 mm US\$
2004	Erste Bank v. Republic of India	Austria - India BIT (1999)	42.80 mm US\$
2004	Offshore Power v. Republic of India	India - Netherlands BIT (1995)	4000.00 mm US\$
2004	Standard Chartered Bank v. Republic of India	India - United Kingdom BIT (1994)	42.80 mm US\$
2003	Bechtel v. India	India - Mauritius BIT (1998)	1200.00 mm US\$

**Source:** UNCTAD 2016d, UNCITRAL 2016, UNCTAD 2015c and author's self-analysis.

From the above table we can find that all of the disputes are with developed countries. The total amount claimed by investor in ISDS cases, in above Table 3 is approximately 12000 million US\$ which is about 36% of India's proposed spending for fiscal year 2016-17<sup>30</sup> or it is more than total FDI inflows to India during two years (2000-2001, 2001-2002).<sup>31</sup>

#### (iv) *Third Party Litigation*

Similarly, a grave problem of third party litigation funding is also a part of the ISDS system. This has been defined as 'a novel industry of institutional investors who invest or provide finance to litigation in return of a share in award and a contingency in the recovery' (Steinitz 2011). A usual funding organisation comprises 'a professional funding firm which pays client's legal expenses on an interim basis. If he wins, he pays contingency expenses out of the damages, usually 20 to 50 percent of the damages. The huge expenses and potentially huge compensations, characteristic of ISDS system, could make it potential market for third party funders. At least two United Kingdom (UK) listed funds, Burford<sup>32</sup> and Juridica<sup>33</sup> and one Netherlands based, Omni Bridgeway, have explicitly targeted IIA claims for funding (Gaukrodger and Gordon 2012).<sup>34</sup> Banks, such as Citigroup<sup>35</sup> or Credit Suisse<sup>36</sup> and insurance corporations, such as Allianz,<sup>37</sup> are also having divisions to invest in investment and commercial disputes. Also some financial corporations like GE Capital have

occasionally invested in lawsuit (Martin 1999). Usually, Burford or Juridica may invest 3 million to 10 million US\$ in a 25-100 million US\$ lawsuit<sup>38</sup> in exchange of 10 to 45% of the damages awarded (Atherton 2009; Cremades 2011). Support for foreign investors by companies and individuals for political and economic reasons are also possible. However, third party funders mostly choose not to reveal their role to the opposing parties or to the arbitrators. So, it is difficult to determine the exact role of third party funders in ISDS. However, third party funding has been a serious issue in several ISDS cases recently.<sup>39</sup> Funders have regular interaction with ISDS arbitrators and also sponsor or attend arbitration industry events (Gaukrodger and Gordon 2012).

This has raised a number of legal issues regarding confidentiality, disclosure, legal privilege, conflicts of interests, attorney-client relationship and cost issues.<sup>40</sup> However, the most serious problems of this can be summarised as: (1) third party funder's influence on arbitration hinders the possibility of a fair settlement of disputes. As funders need to get a huge profit, a settlement of dispute can be thwarted by the funder if there is unsatisfactory scope for them to be fully compensated. The control of litigation funders to influence dispute settlement only based on its monetary benefits is a cause that most times transcends arbitration;<sup>41</sup> (2) The litigation funder could possibly not only have the influence to select the lawyer but also to transform itself into an significant fee and work provider, inviting the favour of lawyers and weakening the lawyer's zeal to the client, hence adversely affecting the legal profession;<sup>42</sup> (3) The litigation funding can also delay the dispute settlement and may 'artificially exaggerate' the dispute, because the claimant investor knows that if he wins, he has to give substantial amount of award to the funder; (4) Litigation funding could raise the number of investment disputes and could have huge economic costs for developing countries in view of the ample compensations generally awarded in investment arbitration according to Morpurgo (2011); (5) Any issue in the relationship between the funder and the investor or sudden refusal of the funder to pay amount can result in the discontinuation of the arbitration process (Brabandere and Lepeltak 2012); (6) According to Beisner *et al.* (2009), third party financing encourages abusive and frivolous litigation. Litigation funders unlike contingency fee lawyers, lack the incentives like, (a) the moral duty to inform clients when potential dispute claims would be abusive or frivolous and (b) when attorneys are employed on contingency, they apparently spend much time on cases that are probable to be successful, as opposite to disputes with a low chance of success. (Beisner *et al* 2009; Cremades 2011).

(v) *Absence of Proper System of Allocation of Arbitration Costs by Arbitrators*

Allocation of arbitration costs by arbitrators is also a part of problem. Depending on the arbitral institution and rules, allocation of arbitration rules differs. Also arbitrators mostly have significant discretion in allocation of costs. For example, under Article 61 (5) of the ICSID Convention, "*the final award has to settle the issue of arbitration and legal costs, arbitration costs can be settled in prior partial awards also*". However, allocation of costs is still a question, as there is no regulation on it. On the other hand UNCITRAL, 2010 Rules provide generally that all arbitration costs, including legal fees shall be borne by the losing party although arbitrators on their discretion can decide otherwise<sup>43</sup> (Gaukrodger and Gordon 2012).

(vi) *Lack of Expertise or Specialisation*

It is also observed that none of the investment arbitration rules mostly used by IATs require arbitrators to be experts of international law. The UNCITRAL, ICC and SCC Rules even do not require their arbitrators to be general legal experts. Although ICSID Convention needs its arbitrators to have some competency in law, but having being created specially to deal with investor disputes, it still makes no requirement for expert arbitrators.<sup>44</sup> This apparently minor flaw has had a massive effect on the development of investment law to date (Marshall 2009). Several investment arbitrators also serve as counsel in other cases. Legal experts like Buergethal (2006) view, that this double role is inappropriate in ISDS mechanism when huge public money and interests are at stake.<sup>45</sup> According to him the rule of permitting counsel to serve as arbitrators and arbitrators to serve as counsel, raises issues like due process of law. He advises that it should be mandatory for counsels and arbitrators to choose to be one or the other. That is essential, in order to safeguard that a dispute arbitrator will not be, consciously or unconsciously tempted. ICSID is mainly vulnerable on this issue because the application and interpretation of the same legal instruments, for example, the BITs, are frequently at question in diverse cases of dispute before it.

(vii) *Unfair System*

The study by Waibel and Wu (2010) has proposed that two groups of frequently appointed investment dispute arbitrators, one appointed by States and the other by investors, were expressively more likely to make conclusions that were favourable to States and investors, respectively. It is also argued by some that ISDS is an unfair system, where most of the arbitrators are from developed countries. For example, investment arbitrators at ICSID are mostly from Europe and North America, and almost 75% belong to OECD countries (Frank 2009), whereas most of the respondent States are from the developing South. Several researchers agree that ISDS system has legitimacy crisis. These crises are fuelled by the rising number of inconsistent decisions by arbitration tribunal. Staunch defenders of the system, such as Rudolf Dolzer even acknowledges that *'the current system of ISDS has not been designed to promote consistency or uniformity of either interpretation or rule-making, with the expansive costs we have seen'* (Dolzer 2014). According to Magraw (2015) *'mostly members of the three-member arbitration tribunal handling ISDS cases are white men. ISDS has grave ethical problems and BIT obligations are so ambiguous that they are incapable of expected application and give IATs too much discretion.'*

(viii) *Absence of Consolidation of Parallel Proceedings*

The need for consolidation of claims arises when there are multiple and different arbitration proceedings initiated with common questions of fact or law which increase the chance of even conflicting or inconsistent awards. For example, after 2001 Argentinean economic crisis, almost 40 investment cases were filed by foreign investors, all linking to the same actions of the Government of Argentina, but grounded on different BITs. In such cases multiple claimants seek compensation under the same BIT against the same Defendant State for the same actions<sup>46</sup> (UNCTAD 2014c).

The most commonly used are ICSID and UNCITRAL 1976. These Arbitration Rules do

not have provisions for the consolidation of multiple claims. Notably, they do not prevent such a motion either. In 2010, UNCITRAL amended its arbitration rules to address issue of joinder and new rules openly allow under Article 17 (5) “one or more third persons to be joined in the arbitration as a party provided such person is a party to the arbitration agreement, unless the arbitral tribunal finds [...] that joinder should not be permitted because of prejudice to any of those parties.” However, UNCITRAL Arbitration Rules as amended in 2010 are silent on consolidation in conditions when all parties have not agreed to the same arbitration treaty (UNCTAD 2014c). For the first time, consolidation provisions were found in BITs in the new model Canada FIPA<sup>47</sup> as well as new 2004 US Model BIT,<sup>48</sup> these model BITs provide for consolidation upon demand by a parties of dispute and not *ex officio* (Katia 2006). Scholars such as Tams (2006) point that one practical way of addressing issue of inconsistency in awards rendering is to consolidation of different but same fact-based cases.

#### (ix) *Inconsistent Decisions*

However, the most critical problems of the ISDS system are of inconsistency. In several cases, IATs came with either inconsistent results or reasoning. Franck (2005a) argues that, some inconsistencies practically may be attributed to significant differences in conduct, situation, or text, however having the same facts but different results remain critically problematic, ISDS is a substantial example of this, where arbitration tribunals have evaluated a similar treaty provision in IIA, but still come with dissimilar conclusions about the applicability, existence or forms of a claimed right, making whole ISDS, an unreliable and doubtful system. Inconsistency is root cause of number of other problems at ISDS. For example, inconsistency gives rise to other challenges, including lack of reliability, predictability, and transparency as to the rule of law and its application (McGowan 2005). Two most cited cases below will highlight the problems of inconsistency, confidentiality, partiality, refusal to apply the host State’s law and challenge to sovereign government’s policy decision.<sup>1</sup>

#### **Two case examples**

##### ***Ronald S. Lauder v. The Czech Republic***

It is a much cited case, where two arbitration tribunals—one based in London and other in Stockholm surprised the stakeholders by rendering two different awards over the same facts of dispute. In 1992, Mr. Lauder, a US national, wanted to invest in Czech television broadcasting. The plan of Mr. Lauder and his investment vehicle, the Central European Development Corporation (CEDC) a German company, was to invest directly in the first private television station in the Czech -TV Nova, with a local partner, Dr. Vladimír Zelezný.<sup>49</sup> While pleading for the license, before Czech Media Council,<sup>50</sup> Dr. Zelezný and his corporation, Central European Television 21 (CET), presented that Mr. Lauder’s CEDC, would be a ‘direct player’ in the TV license and give programming and finances to the TV Nova. CET was ultimately given the license. Mr. Lauder’s application of direct investment was not accepted, however after directions and approval by the Czech Republic Media Council, the TV license was given only to CET and CEDC was required to invest indirectly through CNTS, a joint venture company (Fecak 2011). CNTS now had three partners. (1) The license holder, CET; (2) CEDC to provide the programming, finance, and know-how; (3) a Czech bank to provide additional financing.<sup>51</sup>

CNTS exclusively had the right to use and maintain the license and, in this way, Mr. Lauder and CEDC could use a 'divided' ownership arrangement to use the license and run TV Nova. The Media Council assumed that this split and indirect arrangement would be more liked by public opinion and Czech government than an agreement that gave foreign investor, Mr. Lauder, direct ownership.<sup>52</sup> The TV station was much profitable and most watched during first year of its operation.<sup>53</sup> The good days of stations ultimately faded. In 1994, a strong wave of political criticism started against the existing arrangement of TV Nova.<sup>54</sup> Ultimately, the Czech Parliament, in 1995, modified its Media Law in a way that impacted Mr. Lauder's investment. As a consequence, the Media Council in 1996, reversed its earlier position with regards to the agreement of divided or split arrangement between the CET and the CEDC, Czech Bank and created difficulties for CNTS.<sup>55</sup> Media Council also initiated executive actions against CNTS stating that, as a result TV Nova's corporate structure, CNTS was running the TV Nova illegally (without a license). Under growing pressure, CNTS altered its corporate structure.<sup>56</sup> After the modifications were made, both the administrative and criminal proceedings were stopped.<sup>57</sup> However, in 1998, Dr. Zelezn stopped getting programmes from CNTS, and this obviously resulted in the decline of Mr Lauder's profits.<sup>58</sup> Dr. Zelezn, also called for other corporate alterations, mainly linked to revenues. Dr. Zelezn, in 1999, also wrote secretly to the Media Council to affirm that it endorses Media Council's point that CET's relationship with CNTS are not exclusive, and could get programming services from any provider.<sup>59</sup> Council, in March 1999, delivered a letter asserting that corporate relations between the CET and CEDC are based on non-exclusive terms.<sup>60</sup> In August 1999, Dr. Zelezn started broadcasting TV Nova station using a new corporation, with full control on it, in response Mr. Lauder, relying on U.S.-Czech Republic BIT, started international arbitration against the Czech government. His investment vehicle, CME in 2000, also started arbitration against the Czech government under the Netherlands-Czech BIT (Franck 2005b).

After analysing disputes, two Tribunals delivered decisions. However, interestingly two tribunals came to entirely opposite conclusions on questions related to FET, expropriation, full security and protection, and international law. Both the US-Czech Republic and Netherlands-Czech Republic BITs had similar preventions on the discriminatory and arbitrary treatment of foreign investment.<sup>61</sup> The London Tribunal found that Czech government was involved in discriminatory and arbitrary measure, but that was only limited to initial year of 1993, when Lauder and his investment vehicle was prohibited from becoming direct investors in CET. The London Tribunal held that Media Council's later conduct was not discriminatory and arbitrary under the US-Czech Republic BIT. The Stockholm Tribunal had different look on facts. Concentrating on the alternations of the investment arrangements and apparent government pressure, the Tribunal found the Council's behaviour in 1996 and 1999 under privileged exclusive rights of CME, and this way was arbitrary and violated treaty obligations. But as a breach or violation would involve an act that was both discriminatory and unreasonable, the tribunal determined that the Council's conduct was an open discrimination against CME.<sup>62</sup> The two Tribunals also came with opposite conclusions on question of expropriation. The criteria of expropriation in both Netherlands-Czech Republic BIT and the US-Czech BIT were fundamentally same.<sup>63</sup> The London Tribunal found that the Czech government took no measure equal or near to expropriation of Mr. Lauder's investment, as Czech government

had not directly or indirectly interfered in Mr. Lauder's investment or benefits enjoyed by him.<sup>64</sup> The London Tribunal held that Mr. Lauder's all rights were well preserved until the relationship between CNTS and CET was over. Tribunal further pointed that, even if Mr. Lauder's property rights have been deprived, the Council's action was not expropriation of investment as it in no way benefit the Czech government.<sup>65</sup> However, the Stockholm Tribunal held that the claimant's property was expropriated.

The Tribunal's reason was that the Media Council forced CNTS and illegally cooperated with Dr. Zelezn, to damage the value of Mr. Lauder's investment.<sup>66</sup> Particularly, the Council's changing position on the appropriate arrangement of CNTS destroyed the earlier exclusive relationship. The two Tribunals also contrasted on issue of violation of FET obligation, in spite of fact that both involving BITs had similar provision on FET. Observing that the Council had a responsibility to safeguard the execution of the Media Law, Council began proceedings against illegal broadcasting.<sup>67</sup> The London Tribunal found that there was no violation of the FET principle.<sup>68</sup> However, the Stockholm Tribunal came with opposite conclusion. The reason was that the Council deliberately damaged the foreign investment; the Tribunal held that the Czech government breached its responsibility to provide FET to investors.<sup>69</sup> On the issue of full protection and security, again, Tribunals were opposite in conclusions. The London Tribunal found that the Czech government had not failed to provide full protection and security to Mr. Lauder's property. The London Tribunal described that the Czech government's modification in the Media Law was in no way harmful to Mr. Lauder's property.<sup>70</sup> On the other hand, Stockholm Tribunal held that a State is obliged to safeguard that neither act of the government caused evaluation or withdrawal of an investment. The Stockholm Tribunal held that the Czech government failed in providing full security and protection to foreign investor. The Tribunal further stated that the Council's acts in 1996 and 1999 were taken to remove the security and legal protection of Mr. Lauder's property.<sup>71</sup> Finally on the issue of violation of international law, again both Tribunals differed. The London Tribunal held that no single principle of international law was broken by the Czech Republic. On the other hand, the Stockholm Tribunal found the range of treaty violations and determined the Media Council's acts were against international law (Franck 2005b).

### ***Amco Asia Corp. v. Republic of Indonesia***

Republic of Indonesia in 1960, passed law intended to make the country attractive to foreign investors. The law provided including other things, the tax concessions to foreign investors. In 1968, *Amco Asia Corp*, a US Company, concluded a contract with *PT Wisma*, an Indonesian company to construct a hotel. Amco created a local subsidiary PT Amco. Under the agreement, Amco was to invest three million US\$ in equity capital in the construction. An issue arose with regard to Amco's role in management part. Wisma with the help of army and police of Indonesia took over the administration of the hotel. Wisma also convinced Indonesia to cancel the investment license. In response, Amco initiated arbitration proceedings against Indonesia in ICSID (Begic 2005).

Claimants, Amco Asia and PT Amco and Pan American alleged that their investment had been expropriated and seized by the Government of Indonesia in an armed action. In response, Indonesia claimed that ICSID had no jurisdiction over the dispute. However, the

Arbitration Tribunal rejected Indonesia's claim and gave an award in favour of the claimants on jurisdiction. Almost three months before the ICSID arbitration Tribunal rendered its award, the shareholder of Pan American disclosed a number of things about the dispute to a Hong Kong based newspaper (*Business Standard*) (Cheng 1983). The newspaper later, published a full article about the Amco dispute on its front page. Article had discussion on the corporate relationship between Amco Asia, PT Amco, Pan American and P.T. Wisma. The article also had a report on Wisma's business structure and its association to the army of Indonesia.<sup>72</sup> The article also reported that Wisma was run by a group of army generals.<sup>73</sup> The article described the report of the takeover of the hotel by army and the destruction of removal of Amco's commercial files.<sup>74</sup> The article said that the army's discontentment with the profit-sharing arrangement was the real motive behind the takeover by army (Tahyar 1986).<sup>75</sup>

In response to newspaper report, Indonesia, in September of 1983, filed a petition with the ICSID to instruct the claimants from initiating any act that might probably extend or aggravate the dispute.<sup>76</sup> Indonesia requested the ICSID Tribunal to order that the claimant refrain from stimulating, promoting, or instigating the publication of propaganda, designed to discourage foreign investors in Indonesia.<sup>77</sup> Indonesian government argued, that releasing of statements by claimant to the newspapers was inconsistent with the essence of confidentiality of the arbitration proceedings.<sup>78</sup> The Claimants filed a reply to Indonesia's request in October of 1983, setting forth affirmative defences.<sup>79</sup> However, Tribunal rejected request made by Indonesia and denied to recommend any thing to claimants.<sup>80</sup> The Tribunal held that the newspaper article brought no harm, direct or indirect to Indonesia and did not exacerbate or aggravate the dispute between the parties.<sup>81</sup> The Tribunal stated that the newspaper article was a Pan American shareholder's personal opinions.<sup>82</sup> Tribunal further held that publication of articles in any newspaper has not threatened any right.<sup>83</sup> The Tribunal agreed that media campaign may have been considered to have an adversarial effect upon the economy of Indonesia, the Claimants being aware of Indonesia's need of foreign capital. However, Arbitration Rule under Article 39(1) only refers to rights, which are actual subject matter of the dispute involved, and not to general abstract rights. Thus, recommendation of preventive actions may have been appropriate, but only if the rights had linked specifically to the investment in hotel itself (Tahyar 1986).<sup>84</sup>

Consistency of law creates predictability and improves the legitimacy of ISDS system. The inconsistent conclusions based on the identical facts like above, have attracted extensive criticism. Analysts such as Katia (2006) argues that, while there is no guarantee that these inconsistent decisions would have been evaded if both awards had subsequently put to appeal, the probabilities for consistency in awards would be reinforced by the presence of an appeal mechanism which would see not only awards rendered by ICSID, but also awards by UNCITRAL, SCC, ICC and other *ad hoc* arbitration tribunals.

## **ALTERNATE SYSTEM OF INVESTMENT DISPUTE SETTLEMENT**

According to the UNCTAD (2016d), since 2012, nearly 110 countries have revised their investment policies and also almost 60 countries have drafted or are drafting new model IIAs, mainly to get rid of ISDS. However, EU's idea is most cited alternate system, as EU is giving much attention, in creating a new policy to protect investment, with a specific focus

on establishing a new domestic 'Investment Court System'. The idea of 'Investment Court' came to public, as it is part of the TTIP negotiations. The plan creates a two tier court system, Tribunal of First Instance (Tribunal) and Appeal Tribunal. The Tribunal would use the existing ICSID and UNCITRAL arbitration rules. According to proposed draft, Tribunal judges and the members of the Appeal Tribunal need to be the persons whose impartiality is beyond doubt.<sup>85</sup> Similarly, Tribunal judges shall not be associated with organizations or government and also upon their appointment; they shall not be allowed to act as counsel in any new or pending dispute. The disputing party may contest the selection of the judge if they consider that the judge has a conflict of interests. The draft also takes away the active role of investor in the selection of a dispute arbitrator. For the transparency of the arbitration process the draft will be abiding with the 'Transparency Rules of UNCITRAL (Upreti and Upreti 2010). The negotiating EU-Vietnam FTA, Canada-EU CETA and EU-US Trans-Atlantic Trade and Investment Partnership (TTIP) reflect this new system (UNCTAD 2016).

The Brazil government has adopted new model BIT. Its model agreement on the Cooperation and Facilitation of Investment Agreement (CFIA) was approved in 2013. On this model, Brazil concluded CFIA's with Colombia, Mozambique, Angola, Mexico, Chile and Malawi. The model actually benefited from domestic debates, consultations and inputs from various stakeholders including private sector and experiences of other States and also from international organizations. New model does not include ISDS but a State-State dispute settlement. Key to new model is the creation of unique mechanisms for the avoidance of disputes (Ombudsmen, focal points, joint committees' comprising of both parties of National Congress (Brazilian Parliament). This model comprises explained substantive protections (e.g. national treatment, expropriation, and MFN treatment provisions) (Morosini and Michelle 2015). Indonesia has drafted model BIT, which includes clarifications and safeguards in order to maintain a balance between the expectations of foreign investors and the policy space of State. In new model, ISDS depends on the proper consent by host country. The draft model has excluded the portfolio investments from BIT regime. The MFN clause has provided with specific clarifications, like it will not be used for dispute settlement. The FET has provided clarifications. Similarly, Egypt has drafted a new model BIT text. This text is currently open for inputs from all stakeholders. Mechanisms like (negotiation, conciliation and mediation) are the core apparatus for settlement of disputes in place of ISDS.<sup>86</sup> The draft model clarifies Fair & Equitable Treatment (FET) in a manner that is sensitive to the contracting parties' different levels of development. It also includes clauses on investor's responsibilities. Norway presented its draft model BIT for public consultations in 2015. The draft model created a joint committee to solve disputes concerning new model's interpretation, supervise the operation of the agreement, amending the treaty when needed and potentially implementing codes of conduct for dispute arbitrators.<sup>87</sup> It has clarifications on indirect expropriation. Colombia in 2011 has drafted a new model BIT. It includes provisions to defend the State's policy space to meet public exceptions, excluded investments which are made with assets of unlawful origin, circumscribes or clarifies the FET and indirect expropriation clauses and has provisions for corporate social responsibility (UNCTAD 2016d). US after facing many disputes had reviewed its model treaties.

In fact, US has adopted new model BIT in 2012 (UNCTAD 2016). The new model has benefited from inputs from all stakeholders including Congress, business associations, private sector, academics and labour and environmental groups. The new model has provisions on public participation and transparency. It clarifies and specifies the clauses on FET, national treatment, full protection and security, free transfer of funds and indirect expropriation (UNCTAD 2016d).<sup>88</sup> In 2015, twelve Pacific Rim countries concluded talks for the Trans-Pacific Partnership (TPP) Agreement. The TPP is mostly similar to the new US model BIT. It includes some revised investment clauses (e.g. ISDS carve-out from MFN, clarification of expropriation and FET provisions) (UNCTAD 2016).

## CONCLUSION

ISDS was initially created to depoliticise the investment dispute settlement mechanism. However, in the actual practice, this system came under strong criticism for its flaws like confidentiality, inconsistency and unfairness. Although, several alternate mechanisms at national and regional level were proposed, however, results are insufficient. India has also amended its BIT regime but there was not substantial change in its ISDS provision, which is the main cause of all above problems.

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## ENDNOTES

1. The New York Times. (27 Sept. 2004). "*The Secret Trade Courts*".
2. Eberhardt Pia is a researcher and campaigner at Corporate Europe Observatory, a campaign and research group, at Brussels.
3. UNCTAD (2016a). Investment Policy Hub: International Investment Agreements navigator, available at <http://investmentpolicyhub.unctad.org/IIA> (accessed on 12 August 2016).
4. See Dolzer, Rudolf and Stevens Margrete (1995).
5. Decision on UNCITRAL Rules, UN Documents. A/CN.9/IX/CRP. 4/Additional. 1, amended by UN. Documents. A/CN.9/SR. 178 (1976), reprinted in 15 *International Legal Materials* 701 (1976).
6. ICC Arbitration Rules (1998), 36 *International Legal Materials* 1604 (1997).
7. See Para, A. R.2000.
8. Article 1(2) of ICSID Convention, available at [https://icsid.worldbank.org/ICSID/StaticFiles/basicdoc\\_en-archive/ICSID\\_English.pdf](https://icsid.worldbank.org/ICSID/StaticFiles/basicdoc_en-archive/ICSID_English.pdf) (accessed on 3 August 2015).

9. Article 2, ICSID Additional Facility Rules, available [https://icsid.worldbank.org/apps/ICSIDWEB/icsiddocs/Documents/AFR\\_English-final.pdf](https://icsid.worldbank.org/apps/ICSIDWEB/icsiddocs/Documents/AFR_English-final.pdf) (accessed on 14 Oct 2105).
10. Convention on the Recognition and Enforcement of Foreign Arbitral Awards United Nations 1958.
11. UNCITRAL Transparency Rules, available at <https://www.uncitral.org/pdf/english/texts/arbitration/rules-on-transparency/Rules-on-Transparency-E.pdf>. (accessed on 11 August 2016)
12. SCC Arbitration Rules (2010).
13. ICC Arbitration Rules (2012), Article 1(2). Available at <http://www.iccwbo.org/products-and-services/arbitration-and-adr/arbitration/icc-rules-of-arbitration/>, (accessed on 8 August 2016).
14. UNCTAD (2016) notes that only one case was brought under LCIA Rules, while four other cases had been administered by the LCIA under UNCITRAL Rules.
15. UNCTAD (2016) available at <http://investmentpolicyhub.unctad.org/ISDS/FilterByRulesAndInstitution> (accessed on 5 Oct 2016).
16. Friends of the Earth Europe (2014).
17. Notably then ICSID Convention
18. Like ICSID, UNCITRAL consent of disputing parties is prerequisite for publishing results
19. ICC, Arbitration Rules (2010), available at [http://www.sccinstitute.com/media/40120/arbitrationrules\\_eng\\_webbversion.pdf](http://www.sccinstitute.com/media/40120/arbitrationrules_eng_webbversion.pdf) (accessed on 1 Nov 2016)
20. ICC, Arbitration Rules (1998), articles. 20.7, 21.3, 28.2
21. Article. 36 and LCIA Arbitration Rules (1998). Article. 19, 30.
22. ICSID Convention, Rules and Regulations, chapter VII Interpretation, Annulment and Revision of the Award, Art. 50, (1)(c) (iii).
23. Article 54 of ICSID Convention
24. Article 52 of ICSID Convention, grounds for annulment.
25. John and Vaughan (1999).
26. ICSID (2004). Discussion Paper 23, "Possible Improvements of the Framework for ICSID Arbitration", dated 22 Oct 2004, available at <http://www.worldbank.org/icsid/highlights/improve-arb.pdf> (accessed on 8 Sept. 2016).
27. ICSID (2005). Working Paper 4 "Suggested Changes to the ICSID Rules and Regulations", ICSID Secretariat, dated 12 May 2005, available at <http://www.worldbank.org/icsid/052405-sgmanual.pdf>. (accessed on 7 July 2016).
28. See Gaukrodger and Gordon (2012).
29. A BIT based case between *Occidental Petroleum v. Republic of Ecuador*.
30. Bansal (2016), In Budget 2016, the Government of India had planned to spend Rupees 19, 78,060 crore for 2016-17 fiscal year.

31. As per the above table the total amount claimed by investors is app. 12000 million US\$ as per DIPP fact sheet for January February 2016. The sheet shows that FDI inflows during 2000-2001, 2001-2002 are 10,159 million US\$. Fact sheet is available at [http://dipp.nic.in/English/Publications/FDI\\_Statistics/2016/FDI\\_FactSheet\\_JanuaryFebruaryMarch2016.pdf](http://dipp.nic.in/English/Publications/FDI_Statistics/2016/FDI_FactSheet_JanuaryFebruaryMarch2016.pdf).
32. See website of Burford, available at <http://www.burfordcapital.com/> (accessed on 9 Sep. 2016).
33. See website of Juridica, available at <http://www.juridicainvestments.com/about-juridica.aspx> (accessed on 3 July 2016).
34. See Website of Omni Bridgeway, available at <http://omnibridgeway.com/international-investment-treaty-disputes-2/> (accessed on 12 October 2016)
35. See Appelbaum (2010). Citigroup (Counsel Financial) division.
36. See Glater (2009). Credit Suisse with (Litigation Strategies Group) division.
37. See Herman (2007).
38. Supra 32 and 33
39. Like dispute of *Abaclat v. Republic of Argentina*, Decision on Admissibility and Jurisdiction, ICSID (4 August 2011), Opinion of dissent of Prof. Georges Saad (28 October 2011).
40. International Arbitration Attorney Network: Leading Legal Network of Independent International Arbitration Law Firms and Practitioners (2016). available at <https://international-arbitration-attorney.com/third-party-funders-international-arbitration/>, (accessed on 21 Sept. 2016)
41. Torterola I, Ignacio (2016). "Third Party Funding in International Investment Arbitration", available at [http://investmentpolicyhub.unctad.org/Upload/Documents/Torterola\\_Third%20Party%20Funding%20in%20Arbitration.pdf](http://investmentpolicyhub.unctad.org/Upload/Documents/Torterola_Third%20Party%20Funding%20in%20Arbitration.pdf) (21 Sept 2016)
42. Ibid.
43. UNCITRAL Rules 40(2) and 42(1). The earlier UNCITRAL Rules 1976, provide that the party who loses, should in principle pay the expenses and arbitral fees although the dispute arbitrators are explicitly given choice to decide otherwise; legal expenses were mostly left to the discretion of tribunal.
44. ICSID Convention, Article 14(1).
45. Thomas Buergenthal is a Judge of the International Court of Justice in The Hague.
46. See *Canadian Cattlemen for Fair Trade v. US*, UNCITRAL, Award on Jurisdiction, dated January 28, 2008, available at <http://www.italaw.com/sites/default/files/case-documents/ita0114.pdf> (accessed on 9 Nov 2016)
47. Article 32 of new model Canada FIPA, available at [www.dfait-maeci.gc.ca/tna-nac/documents/2004-FIPA-model-en.pdf](http://www.dfait-maeci.gc.ca/tna-nac/documents/2004-FIPA-model-en.pdf) (accessed on 24 July 2016)

48. Article 33 of 2004 US Model BIT, available at [www.state.gov/documents/organization/38710.pdf](http://www.state.gov/documents/organization/38710.pdf). (accessed on 9 June 2016)
49. See *Lauder v. Czech Republic*, (UNCITRAL) Final Award, IT 187-91 (2001) ( London Award)
50. The Czech Republic authority for giving licence.
51. London Award
52. Ibid.
53. Rushton 2001.
54. London Award *supra* 8
55. See *CME Czech Republic B.V. (The Netherlands) vs. The Czech Republic* 14 March, 2003, FINAL AWARD Stockholm (Stockholm Award)
56. London Award
57. Ibid.
58. Ibid.
59. Ibid.
60. Ibid.
61. Article II(2)(b) of the U.S.-Czech Republic BIT.
62. Stockholm Award.
63. US-Czech Republic BIT.
64. London Award
65. Ibid.
66. Stockholm Award
67. Ibid.
68. Ibid.
69. Ibid.
70. London Award
71. Stockholm Award
72. Ibid.
73. Ibid.
74. See Cheng 1983.
75. Ibid.
76. *Amco Asia Corp.*, 24 *International Legal Materials* 365.
77. Ibid. pp. 365.

78. Ibid. pp. 366.
79. Ibid. pp. 366-67
80. Ibid. pp. 367-69
81. Ibid.
82. Ibid. pp. 368
83. These were the subject of the underlying dispute.
84. *Occidental Petroleum / Holiday Inns v. Government of Morocco*, ICSID Case No. ARB/72/1.
85. Article 11 of the EU Draft text, Transatlantic Trade and Investment Partnership: Trade In Services, Investment And E-Commerce: Chapter II – Investment, Section 3, available at [http://trade.ec.europa.eu/doclib/docs/2015/september/tradoc\\_153807.pdf](http://trade.ec.europa.eu/doclib/docs/2015/september/tradoc_153807.pdf) (accessed on 23 July 2016)
86. UNCTAD Documents, available at <http://investmentpolicyhub.unctad.org/Upload/Documents/GAFI-2012.pdf> (accessed on 1 Sep 2016).
87. UNCTAD Documents, available at <http://investmentpolicyhub.unctad.org/Download/TreatyFile/2873>, (accessed on 12 Sep 2016).
88. 2012 U.S. Model Bilateral Investment Treaty, available at <https://ustr.gov/sites/default/files/BIT%20text%20for%20ACIEP%20Meeting.pdf>(accessed on 12 Sep 2016).

## REFERENCES

1. Appelbaum, B. (2010). “Investors Put Money on Lawsuits to Get Payouts”, *New York Times*, New York, 14 November 2010.
2. Atherton, L.(2009). “Third Party Funding in Arbitration: A Perspective from England”,in Peter Morton and Ian Meredith (eds.). *Arbitration World, 10th edition*, London:K&L Gates.
3. Bansal, Samarth (2016). “Budget 2016: Where the money comes from and where it goes”, *The Hindu*, Delhi, 1March.
4. Begic, Taida(2005). *Applicable Law in International Investment Disputes*, Utrecht:Eleven International Publishing.
5. Beisner, J., Miller J. and Rubin G. (2009). “*Selling Lawsuits, Buying Trouble: Third-Party Litigation Funding in the United States*”, U.S. Chamber Institute For Legal Reform.
6. Bockstiegel, Karl-Heinz(2012).Commercial and Investment Arbitration: How Different are they today?, The Lalive Lecture 2012, *Journal of the London Court of International Arbitration*, **28** (4):577-590.
7. Brabandere, Eric De and Lepeltak, Julia(2012).“Third Party Funding In International Investment Arbitration”,Grotius Centre Working Paper No. 2012/1,*Grotius Centre for*

*International Legal Studies*:Netherlands.

8. Buergenthal, Thomas (2006). "The Proliferation of Disputes, Dispute Settlement Procedures and Respect for the Rule of Law". *Transnational Dispute Management*, **3**(5).
9. Cheng, HK(27June,1983). Firm's Clash with Indonesia goes to ICSID, *Business Standard*: Hong Kong.
10. Chi, Manjiao (2013). "Privileging Domestic Remedies in International Investment Dispute Settlement", *American Society of International Law*, **107**:26-29.
11. CRCICA(2012). *Annual Report 2011-2012*, available at [http://www.crcica.org.eg/publication/annual/pdf/English/12/CRCICA\\_ANNUAL\\_REPORT\\_2011\\_2012.pdf](http://www.crcica.org.eg/publication/annual/pdf/English/12/CRCICA_ANNUAL_REPORT_2011_2012.pdf) (accessed on 2 September 2016).
12. CRCICA(2016). *New CRCICA Arbitration Rules* (2011), available at [http://www.crcica.org.eg/arbitration\\_rules.html](http://www.crcica.org.eg/arbitration_rules.html) (accessed on 19 October 2016).
13. Cremades, Jr B.M. (2011). "Third Party Litigation Funding: Investing in Arbitration", *Transnational Dispute Management*, **8**(4):1-42.
14. Dolzer, Rudolf and Stevens Margrete(1995). *Bilateral Investment Treaties*, Netherlands: Martinus Nijhoff Publishers.
15. Dolzer, Rudolf(2014). "Fair and Equitable Treatment: Today's Contours", *Santa Clara Journal of International Law***12**(1):7-33.
16. Dugan, Christopher, Don Wallace, Jr., Noah Rubins, and Borzu Sabahi(2008). *Investor-State Arbitration*, Oxford: Oxford University Press.
17. Eberhardt, Pia & Cecilia Olivet(2012). *Profiting from injustice how law firms, arbitrators and financiers are fuelling an investment arbitration boom*, Brussels:Corporate Europe Observatory and the Transnational Institute.
18. Eberhardt, Pia (2016). *Investment Court System (ICS): The Wolf Sheep's Clothing the EU's Great Corporate Privilege Rebrand*, Voltaire: Public Services International.
19. Fecak, Tomas(2011). "Czech Experience with Bilateral Investment Treaties: Somewhat Bitter Taste of Investment Protection", in Pavel Sturma and Peter Misur (eds.), *Czech Yearbook of Public & Private International Law*, Praha: Czech Society of International Law.
20. Franck, Susan(2011). Rationalizing Costs in Investment Treaty Arbitration, *Washington University Law Review*, **88**(4): 769-852.
21. Franck, Susan D. (2005a). "The Nature And Enforcement Of Investor Rights Under Investment Treaties: Do Investment Treaties have a Bright Future", *U.C. Davis Journal of International Law and Policy*, **12**(47):52-98.
22. Franck, Susan D.(2005b). "The Legitimacy Crisis in Investment Treaty Arbitration: Privatizing Public International Law through Inconsistent Decisions", *Fordham Law Review*,**73**(4):1521-1625.

23. Franck, Susan D. (2009). "Development and Outcomes of Investment Treaty Arbitration", *Harvard International Law Journal*, (50)2.
24. Friends of the Earth Europe(2014).What greater rights for investors really means EU-US trade: the myths behind the Investor State Dispute Settlement Mechanism, available at [https://www.foeeurope.org/sites/default/files/publications/foee-isds-myths-140714\\_0.pdf](https://www.foeeurope.org/sites/default/files/publications/foee-isds-myths-140714_0.pdf).(accessed on 8 July 2016).
25. Friends of the Earth Europe(2015). What are the implications of an investor-state dispute settlement mechanism in TTIP? Available at [https://www.foeeurope.org/sites/default/files/euus\\_trade\\_deal/2015/foe\\_tt看ip\\_factsheets\\_isds\\_v2\\_web.pdf](https://www.foeeurope.org/sites/default/files/euus_trade_deal/2015/foe_tt看ip_factsheets_isds_v2_web.pdf) (accessed on 1 August 2016).
26. Garcia, Frank J., Ciko Lindita, Gaurav Apurv and Hough Kirrin(2015). "Reforming the International Investment Regime: Lessons from International Trade Law", *Journal of International Economic Law*,**18**: 861–892.
27. Gaukrodger, D. and K. Gordon(2012). "Investor-State Dispute Settlement: A Scoping Paper for the Investment Policy Community", *OECD Working Papers on International Investment*, OECD: France.
28. Gerbay, Remy(2012). The London Court of International Arbitration (LCIA) in Loukas Mistelis and Laurence Shore (eds.), *World Arbitration Reporter-Second Edition*, New York: JurisNet LLC.
29. Glater J.D. (2 June, 2009). "Investing in Lawsuits, for a Share of the Awards", New York: New York Times.
30. Herman, M.(25 October, 2007). "Fear of third party litigation funding is groundless", London: *The Times*.
31. ICC(2013). Arbitration rules Mediation rules, ICC Publication 865-2 ENG, France: ICC.
32. ICC(2016). "Organisation: ICC International Court of Arbitration", available at <http://www.iccwbo.org/about-icc/organization/dispute-resolution-services/icc-international-court-of-arbitration/> (accessed on 9 Oct 2016).
33. ICSID(2003). *ICSID Convention, Regulations and Rules, ICSID/15/Rev. 1*, Washington: ICSID.
34. ICSID(2016). "Schedule of Fees", effective January 1, 2015, available at <https://icsid.worldbank.org/apps/ICSIDWEB/icsiddocs/Pages/Schedule-of-Fees.aspx> (accessed on 11 August 2016).
35. John, Collier and Vaughan,Lowe(1999).*The Settlement of Disputes in International Law*, Oxford: Oxford University Press.
36. Johnson O. Thomas and Gimblett, Jonathan(2011). "From Gunboats to BITs: The Evolution of Modern International Investment Law," in Karl P. Sauvant (ed.). *Yearbook on International Investment Law and Policy 2010, 2011*.Oxford:Oxford University Press.
37. Johnson, Lise, Lisa Sachs and Jeffrey D. Sachs(2015). *Investor State Dispute Settlement, Public Interest and U.S. Domestic Law*, Columbia: Columbia Centre on Sustainable Investment.

38. Katia Yannaca-Small(2011). Expert Dialogue on International investment agreements and Investor-State Dispute settlement: Review of Arbitral Awards, available at [https://www.oecd.int/olis/vgn-extemplating/views/DocList/genericDisplay.jsp?cote=DAF/INV/WP/WD\(2011\)2&Lang=2](https://www.oecd.int/olis/vgn-extemplating/views/DocList/genericDisplay.jsp?cote=DAF/INV/WP/WD(2011)2&Lang=2) (accessed on 11 Sep.2016)
39. Kelsey, Jane and Wallach Lori (2012). Investor-State' Disputes in Trade Pacts Threaten Fundamental Principles of National Judicial Systems, *Public Citizens*, available at <http://www.citizen.org/documents/isds-domestic-legal-process-background-brief.pdf> (accessed on 5 July 2016).
40. LCIA(2016). "*LICA Organisation*", available at <http://www.lcia.org/LCIA/organisation.aspx> (accessed on 23 July 2016).
41. Levander, Samuel (2014). "Resolving Dynamic Interpretation": An Empirical Analysis of the UNCITRAL Rules on Transparency, *Columbia Journal of Transnational Law* **52**(506):506-541.
42. Magraw, Daniel (May 27, 2015). "Investor-State Dispute Settlement: Transparency and Beyond", *SAIS Foreign Policy institute*, available at [http://www.fpi.sais-jhu.edu/single-post/2015/05/26/InvestorState-Dispute-Settlement-Transparency-andBeyond?fbcommentid=824340814314976\\_849317568483967](http://www.fpi.sais-jhu.edu/single-post/2015/05/26/InvestorState-Dispute-Settlement-Transparency-andBeyond?fbcommentid=824340814314976_849317568483967)(accessed on 12 September 2016).
43. Mann, Howard, Moltke, Konrad von(2002). *Protecting Investor Rights and the Public Good: Assessing NAFTA's Chapter 11*, Background Paper, Manitoba: International Institute for Sustainable Development.
44. Marshall, Fiona and Mann, H. (2006). Good Governance and the Rule of Law: Express rules for investor-state arbitrations required. Manitoba: *International Institute for Sustainable Development*.
45. Marshall, Fiona (September 2009). Defining New Institutional Options for Investor-State Dispute Settlement, *International Institute for Sustainable Development*: Manitoba.
46. McGowan, Miranda Oshige(2005). "Against Interpretation", *San Diego Law Review*. **42**, 711, 728.
47. Martin, Susan Lorde(1999). Financing Plaintiffs' Lawsuits: An Increasingly Popular (and Legal) Business, *University of Michigan Journal of Law Reform*, **33**(57)
48. Miller, Scott and Hicks, Gregory N.(2015). "Investor- State Dispute Settlement: A Reality Check", *Centre for Strategic and International Studies*, New York.
49. Morpurgo, Marco de(2011). "A Comparative Legal and Economic Approach to Third-Party Litigation Funding", *Cardozo Journal of International and Comparative Law*, (19):343-412.
50. OECD (2012). *Investor-State Dispute Settlement*. Public Consultation, OECD: Paris
51. OECD(2005). "Transparency and Third Party Participation in Investor-State Dispute Settlement Procedures", *OECD Working Papers on International Investment*, 2005/01, OECD: France

52. Olivet, Cecilia (2011). *The Dark Side of Investment Agreements*, The Transnational Institute: Amsterdam.
53. Osterwalder, Nathalie Bernasconi- and Diana Rosert(2014).*Investment Treaty Arbitration: Opportunities to reform arbitral rules and processes*, The International Institute for Sustainable Development: Manitoba.
54. Osterwalder, Nathalie Bernasconi and Johnson, Lise(2011).Transparency in the Dispute Settlement Process: Country best practices, *International Institute for Sustainable Development*: Manitoba.
55. Parra, A. R.(2000). “ICS ID and Bilateral Investment Treaties, 17 ICSID Review – *Foreign Investment Law Journal*11.
56. PCA(2016a). “*PCA Arbitration Rules*”, available at <https://pca-cpa.org/en/services/arbitration-services/pca-arbitration-rules-2012/> (accessed on 21 October 2016).
57. PCA(2016b). “*Cases, Pending cases: Inter-State proceedings*”, available at <https://pcacases.com/web/allcases/> (accessed on 21 October 2016).
58. Peterson, Luke Eric (20 October 2010). Uruguay Hires Law Firm And Secures Outside Funding To Defend Against Philip Morris Claim; Not The First Time An NGO Offers Financial Support For Arbitration Costs, *Investment Arbitration Reporter*: available at <http://www.iareporter.com/articles/uruguay-hires-law-firm-and-secures-outside-funding-to-defend-against-philip-morris-claim-not-the-first-time-an-ngo-offers-financial-support-for-arbitration-costs/> (Accessed on 6 March 2016).
59. Raouf, M.A. (2012). “*UNCITRAL Arbitration Rules and the settlement of investment disputes*”: *The experience of CRCICA*. Available at [http://www.crcica.org.eg/newsletters/n1201203/Uncitral\\_Arbitration\\_Rules\\_And\\_The\\_Settlement\\_Of\\_Investment\\_Disputes\\_%20the%20experience\\_Of\\_Crcica.Pdf](http://www.crcica.org.eg/newsletters/n1201203/Uncitral_Arbitration_Rules_And_The_Settlement_Of_Investment_Disputes_%20the%20experience_Of_Crcica.Pdf).(accessed on 6 Oct 2016).
60. Roberts, Anthea (2013). “Clash of Paradigms: Actors and Analogies Shaping the Investment Treaty System”, 107, *American Journal of International Law* 45.
61. Rushton, Matthew (2001). Clifford Chance Entangled in Bitter Lauder Arbitrations, *Legal Bus*. October 2001.
62. SCC(2016a). “*Investment Treaty Arbitration 1993-2015*”, available at <http://sccinstitute.com/statistics/investment-disputes-2015/>(accessed on 11 Oct. 2016)
63. SCC(2016b). “*The Administration of Investment Disputes*”, SCC Website, Available at <http://www.sccinstitute.com/dispute-resolution/investment-disputes/>(accessed on 10 Oct 2016)
64. SCC(2016c). “*About the SCC*”, available at <http://www.sccinstitute.com/about-the-scc/> (accessed at 21 Oct. 2016).
65. Scherer, Matthias (5 October 2011). “Arbitral Institutions under Scrutiny”, *Kluwer Arbitration Blog*, available at <http://kluwerarbitrationblog.com/2011/10/05/arbitral-institutions-under-scrutiny/> (accessed on 7June 2016).

66. Schill, Stephan W. (2015). *Reforming Investor-State Dispute Settlement (ISDS): Conceptual Framework and Options for the Way Forward*, International Centre for Trade and Sustainable Development (ICTSD): Geneva.
67. Schreuer, Christoph H.(2001). *The ICSID Convention. A Commentary*, Cambridge: Cambridge University Press.
68. Shentenawi, Laila El (2012). Getting the Deal through – Arbitration 2012, *CRCICA*, Cairo Regional Centre for International Commercial Arbitration, available at <https://gettingthedealthrough.com/archive/area/3/arbitration/> (accessed on 19 July 2016).
69. Sheppard, Audley and Coates, Paul(2014). “*The UNCITRAL Rules on Transparency In Treaty-based Investor-State Arbitration*”, Briefing Note, Clifford Chance: London.
70. Steinitz, Maya.2011. “Whose claim is this anyway? Third party litigation funding”, *Minnesota Law Review*, **95**:1268.
71. Tahyar, Benjamin H.(1986). “Confidentiality in ICSID Arbitration after AMCO Asia Corp. v. Indonesia: Watchword or White Elephant”, *Fordham International Law Journal*, **10** (1):93-122.
72. Tienhaara, Kyla(2006). “What You Don’t Know Can Hurt You: Investor-State Disputes and the Protection of the Environment in Developing Countries”, *Global Environmental Politics* **6**(4):73-100.
73. Toope Stephen(1990). *Mixed International Arbitration*, Cambridge: Cambridge University Press.
74. UNCITRAL(2016). “Case Law on UNCITRAL Texts (CLOUT)”, available at <http://www.uncitral.org/clout/index.jsp#country>, accessed on 5 June 2016).
75. UNCITRAL(2016). “Origin, Mandate and Composition of UNCITRAL”, available at <http://www.uncitral.org/uncitral/en/about/origin.html> (accessed on 21 September 2016).
76. UNCTAD(2010). *Investor-State Disputes: Prevention and Alternatives to Arbitration*, UN: Geneva.
77. UNCTAD(2014d). “*Investor-State Dispute Settlement*”, UNCTAD Series on Issues in International Investment Agreements II, UN: Geneva
78. UNCTAD(2015c). “*World Investment Report: Reforming International Investment Governance*”, available at [http://unctad.org/en/PublicationsLibrary/wir2015\\_en.pdf](http://unctad.org/en/PublicationsLibrary/wir2015_en.pdf) (accessed on 3 June 2016).
79. UNCTAD (2013c). “*World Investment Report, Global value chains: Investment and Trade for Development*”, UN: Geneva
80. UNCTAD(2016d). “*Investment Dispute Settlement Navigator*”, available at <http://investmentpolicyhub.unctad.org/ISDS> (accessed on 10 June 2016).
81. UNCTAD(2014). “*IIA Issues Note: Investor-State Dispute Settlement: An Information Note On the United States and the European Union*”, UN: Geneva.

82. UNCTAD(2014f). “*IIA Issues Note: Investor-State Dispute Settlement: Review Of Developments in 2015*”, UN: Geneva.
83. UNCTAD(2014c). “*Investor-State Dispute Settlement: UNCTAD Series on Issues in International Investment Agreements II*”, UN: Geneva.
84. UNCTAD(2016). “*IIA Issues Note: Taking Stock of IIA Reform*”, UN: Geneva.
85. United Nations (1958). United Nations Conference on International Commercial Arbitration: Convention on The Recognition And Enforcement of Foreign Arbitral Awards, UN:Geneva.
86. Upreti, Pratyush Nath and Upreti(2015). “Right to Regulation & Investment Court System: Alternative to ISDS? (Part I)”, *European Federation for Investment Law and Arbitration (EFILA)*. Available at <https://efilablog.org/2015/12/02/right-to-regulation-investment-court-system-alternative-to-isds-part-i/> (accessed on 23 Oct 2016).
87. Waibel, M. and Wu, Y. (2010).“Are Arbitrators Political?”*ASIL Research Forum*, UCLA, 5 November 2011.
88. Wellhausen, Rachel L.(2016). “Recent Trends in Investor–State Dispute Settlement”, *Journal of International Dispute Settlement*, (7): 117–135.
89. Wessels, Ante(2014). “ISDS threatens privacy and reform of copyright and patent law”, *The Foundation for a Free Information Infrastructure (FFII)*” comments to Dutch Parliament on ISDS. Available at <https://blog.ffi.org/isds-threatens-privacy-and-reform-of-copyright-and-patent-law/> (accessed on 3 July 2016).

# BREXIT: IMPACT ON INDIA-EUROPEAN UNION STRATEGIC RELATIONSHIP

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## ABSTRACT

*The 14<sup>th</sup> Summit between the European Union and India was held on 6 October 2017 in New Delhi, marking 55 years of diplomatic relationship. A joint statement on combatting terrorism, on clean energy and climate change's and smart and sustainable urbanisation were adopted. India and the European Union (EU) have been close allies and the bilateral relationships between the two were upgraded to a strategic level in 2004. An unprecedented change came in June 2016 when nearly 52 percent of people decided to "BREXIT" and leave the EU reversing the decision taken in 1975 to join the common market. In such a scenario, the exit of the UK significantly affected the relationship between India and the EU and prompted India to reconsider its ties with the EU. The strengthening of India-EU strategic relationship is significant not only for both powers but is expected to be good for the entire world. In this context, the present paper attempts to analyze the dimensions and levels of cooperation between India and the EU and to further explore the impact of the UK "BREXIT" on the India-EU strategic relationship.*

**Keywords:** BREXIT, European Union, Bilateral, Strategic Relationship, United Kingdom.

## INTRODUCTION

The term 'BREXIT' is the amalgamation of two words "UK" and "exit" and is commonly used to refer to the intention of the UK to withdraw from the EU.<sup>1</sup> BREXIT is derived from the Grexit analogy referring to the hypothetical withdrawal of Greece from the Eurozone and perhaps the EU also. The provisions to withdraw from the EU were included in 2007 and mentioned under Article 50 of the EU Charter. The United Kingdom was not the signatory to the Treaty of Rome that created the European Economic Community (EEC) in 1957. It was only after the third application that the UK got the membership. The EEC became the EU on 1<sup>st</sup> November 1993 after the conclusion of the Treaty of Maastricht.<sup>2</sup>

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There has been confusion and an atmosphere of differences in UK for the referendum on UK and EU membership. By 2012, in order to gauge public support and appease opponents, Prime Minister David Cameron rejected calls for a referendum but suggested the possibility of a future referendum.<sup>3</sup> Ultimately, on 22 February 2016 in a speech to the House of Commons, Cameron recognized 23 June 2016 as the date for referendum and set out the legal framework and circumstances for withdrawal from EU citing the Article 50 of Lisbon Treaty. Accordingly, the referendum vote was held on 23 June 2016 to decide whether the UK should leave or remain in the EU.<sup>4</sup>

## **AFTERMATH OF BREXIT IN UK**

The referendum in which nearly every citizen took part resulted in drastic change in political spectrum of UK. Overnight nationwide petitions came up for another referendum which was thoroughly rejected by the spokesperson of David Cameron.<sup>5</sup> At that juncture, Theresa May denied the need for second referendum and called the referendum as final and declared BREXIT as BREXIT. Ultimately, on 9 July, 2016 government rejected the petition for second referendum. Subsequent developments lead to the BREXIT and reshuffling in political leadership. Theresa May replaced David Cameroon and became the new Prime Minister. Philip Hammond was appointed as Chancellor of the Exchequer while Boris Johnson was appointed Secretary of State for Foreign and Commonwealth Affairs and David Davis became Secretary of State for Exiting the EU.<sup>6</sup>

## **INDIA-EU RELATIONS**

After independence, India adopted the policy of Non-Alignment in order to protect its sovereignty from the rivalry of two superpowers. The paradigm shift in Indian foreign policy came with the disintegration of USSR that marked the end of Cold War era. In the changing global order, India attempted to forge strategic ties with major regional and global powers.<sup>7</sup> Interestingly, India-EU relationship is not new and predated to the early 1960s, when India established the diplomatic ties with EEC which itself was formed in 1957. By 1994 an Agreement of Cooperation was signed between the two that gave a new height to bilateral relations. With the beginning of new millennium, the First India-EU Summit was held on 28 June 2000 in Lisbon that marked a new era in the evolution of the relationship. Till now, 14 annual Summits have been held. By 2004 in the 5<sup>th</sup> Hague Summit, a significant change occurred when the relationship was converted from bilateral to 'strategic'. In 2005 a Joint Action Plan was initiated that was reviewed in 2008 endorsing the dialogue and consultation mechanisms in political and economic spheres, enhancing trade and investment, and bringing peoples and cultures together.<sup>8</sup> In 2016, a new zenith in the relationship was achieved when 13<sup>th</sup> India –EU Summit held in Brussels adopted the Agenda for 2020. This agenda paved the way for cooperation on a variety of issues ranging from nuclear cooperation to investments, cyber security, climate change and 5G communications. During 14<sup>th</sup> India-EU Summit held in New Delhi, joint statement on combatting terrorism, on clean energy and climate change; and on Smart and Sustainable urbanisation were adopted.

## INDIA-EU STRATEGIC RELATIONSHIP

Despite the fact that both India and EU are in different geographical landscapes and not sharing borders, they do enjoy healthy economic-strategic ties. Traditionally, the relationship between the two was not beyond mercenary relations. By the 21<sup>st</sup> century the relations developed to the strategic level. In the context of changing global order after the demise of USSR, a significant change in the relationship between the two is visible. The end of the Cold War opened up the new dimensions in global strategic environment. The keystones to this strategic partnership have been mutual respect, shared values and common interests.<sup>9</sup> Today both India and EU understands the potential in each other and have mutual stake in strengthening the cooperation. This sense of mutual benefits clearly may contribute to further the wellbeing and development on both sides. The importance of this tie is reflected in the deeper level of strategic cooperation which encompasses not only choices and priorities but also the partnership of necessity in order to achieve and sustain convergence together. Nevertheless, with the Strategic Relationship Agreement signed in 2004 the significant importance of the cooperation between the two is accepted, still progress is not up to the expectations and much needed to be done in this respect. At ground level 'both sides need to acknowledge each partner's individual realities.'<sup>10</sup>

## STRATEGIC SIGNIFICANCE OF EU-INDIA RELATIONSHIP

India has always believed that it would shape the future of the world. In recent years India's dream of claiming its rightful place has come ever closer. In the wake of changing world order due to the end of the Cold War and with the liberalization of Indian economy in late 20<sup>th</sup> century, Indian foreign policy have been determined to maintain close relations with every strategic partner. While counting national interests, New Delhi ensures that a strategic relation with one partner doesn't come with the expense of other partner. Thus India considers every strategic partner as important irrespective of the region it belongs to. Therefore partnership with EU is important both strategically and economically to Indian interests. Also EU attracted entire world by making itself a significant global player in changing world order and prompted India and other countries to forge strategic ties with it. Hence, 'EU's growing influences not only at the regional but also the global politico-security arrangement are of keen interests for India'.<sup>11</sup>

The relevance of India-EU strategic partnership can be seen in the fact that both partners share a vision of democratic, multi-cultural and multi-polar global order. The Indian side perceives EU as potential economic and political partner. The realist approach of New Delhi is aimed at "achieving security characterized by efforts to manage asymmetries, not eliminating them, and managing the multi-cornered strategic context to India's advantage".<sup>12</sup> The strategic engagement with EU could help India in quenching its thirst for playing an important role both globally and regionally. At both levels this relationship may also help in establishing peace, stability and security apart from the bilateral ambitions. Terrorism becomes a global challenge to which both partners are committed to fight along with the commitment to eliminate other threats such as arms and human trafficking. Both allies promoted democracy, human rights and nuclear disarmament. In a Joint Statement at 5<sup>th</sup> India-EU Hague Summit in 2004, they together pledged '*for recognition of shared*

concerns of the international community regarding the danger posed by the proliferation of nuclear, chemical and biological weapons including the acquisition by non-state actors, and resolved to enhance collective action to fight the proliferation of WMD as well as the means of delivery'.<sup>13</sup> Further, they agreed that a strong multi-cultural consultation and an effective export control measures for dual-use goods is required to overcome the proliferation challenges. The statement further depicted that 'such measures should not hamper international co-operation in materials, equipment and technology for peaceful purposes'.<sup>14</sup> From above discussion it is clear that cooperation between India and EU is of utmost significance at all levels whether it is international, regional or bilateral.

## **TURNING POINT IN INDIA-EU STRATEGIC RELATIONSHIP**

The first India-EU Lisbon Summit of 2000 marked the beginning of new era in strategic partnership between the two partners. This Summit was a major turning point in the history of India-EU relations. This Summit "for the first time brought about an understanding between the two on the need to positively engage through bilateral dialogue in all areas of common interests and concerns".<sup>15</sup> In the beginning of 21<sup>st</sup> century, the 2004 Hague Summit firmly recognized the Indian position at international level and strengthened the relationship from bilateral to strategic level including political, geopolitical, trade and economic aspects. This development clearly adds significance to the below par strategic engagement between India and EU. Subsequently, the Joint Action Plan (JAP) was adopted in 2005 which underlined a roadmap for actions. The JAP committed itself to the following issues:

1. Strengthening dialogue and consultation mechanisms;
2. Deepening political dialogue and cooperation;
3. Bringing together people and cultures;
4. Enhancing economic policy dialogue and cooperation;
5. Developing trade and investment.

The JAP was reviewed in 2008 adding the following new areas of importance:

1. Promoting peace and comprehensive security;
2. Promoting sustainable development;
3. Promoting research and technology;
4. Promoting people to people and cultural exchange.

## **INDIA-EU POLITICAL RELATIONS**

On 6 October 2017, 14<sup>th</sup> India-EU Summit was held in New Delhi. Indian PM led the Indian delegation and EU was led by the President of the European Commission, Jean-Claude Juncker and the President of the European Council, Donald Tusk. Summit welcomed the recent launch of the Investment Facilitation Mechanism of EU Investment in India. On 30 March 2016, the 13<sup>th</sup> India-EU Summit was held in Brussels after a gap of four years. The Indian Prime Minister Mr. Narendra Modi led the Indian delegation. On the other side, EU was represented by Mr Donald Tusk, President of the European Council and Mr Jean

Claude Juncker, President of the European Commission. Also, the President of the European Parliament Mr Martin Schulz, President of the European Investment Bank, Mr Werner Hoyer, and EU High Representative Ms Federica Mogherini attended the Summit. The Summit concluded by adoption of seven documents including a Joint Statement and Agenda for Action 2020. This joint statement included:

- An India-EU Joint Declaration on the fight against terrorism;
- India-EU Joint Declaration on Common Agenda for Migration and Mobility;
- Joint Declaration on Water Partnership;
- Joint Declaration on Clean Energy and Climate Partnership.

Apart from this, the release of the first tranche of € 200 million of the total €450 million loan from the European Investment Bank for the Lucknow Metro project was also finalized during the Summit.<sup>16</sup>

Another level of engagement between India and EU have been materialized through regular interaction at Foreign Ministry level. On 30 January 2013, 23<sup>rd</sup> India-EU Ministerial Meeting took place in Brussels led by the then External Affairs Minister, Shri Salman Khurshid, while the EU side was represented by the EU High Representative for Foreign Affairs and Security Policy, Baroness Catherine Ashton. In this meeting, international and regional issues of mutual interest were discussed apart from the bilateral relations. In 2015, Minister of State for External Affairs, Gen (Dr.) V.K. Singh (Retd), led the Indian delegation at the 12<sup>th</sup> Asia-Europe (ASEM) Foreign Ministers' Meeting in Luxembourg from 4-7 November 2015. From October 4-5, 2016, a Conference on Afghanistan was held in Brussels organized by the EU. Later in October 2016, Mr. Karmenu Vella, EU Commissioner for Environment, Maritime Affairs and Fisheries, visited India and signed the MoU on India-EU Water Partnership. Also, in November 2016 Mr. Jyrki Katainen, the Vice President of the European Commission for Jobs, Growth, Investment and Competitiveness visited India. In the meeting both sides have instituted Foreign Policy Consultations at the level of Secretaries.

## **INDIA-EU ECONOMIC AND TRADE RELATIONS**

An important aspect of India-EU relations are economic and trade relations which transforms the strategic ties between the two. Today India emerged as a rising economic power. Since the advent of economic liberalization, the Indian economy made remarkable progress and attracted various global powers including US, Russia and EU. In the new millennium, the economic growth reached 8.5 percent and in 2006 it touched the growth rate of 9.5 percent. In terms of Gross Domestic Product (GDP), India emerged as the twelfth-largest global economy while in purchasing power parity (PPP)<sup>17</sup> it counted as the fifth-largest global economy having huge scope for progress in future. The success stories of EU's regional and economic cooperation and significant growth of Indian economy made both India and EU compatible towards strengthening economic and trade ties. India offers the conducive environment for economic success and has recorded as the 9<sup>th</sup> largest trading partner to EU in 2015. EU too is the largest regional trading partner of India having bilateral trade recorded at € 105.2 billion (comprising trade in goods of € 77.5 billion and trade in services of €27.7 billion) in 2015.

Same year, India's export (goods) to the EU stood at € 39.41 billion (\$43.73 billion) while India's imports from the EU were valued at € 38.1 billion (\$42.3 billion). In 2015, the trade balance in goods was in India's favour by €1.3 billion (\$1.44 billion). While in terms of services, the bilateral trade reached at €27.7 billion (\$30.75 billion) in 2015 comprising Indian exports of services to the EU worth € 13.67 billion (\$15.17 billion) and Indian imports from the EU worth €14.03 billion (\$15.58 billion). India's bilateral trade with the EU saw a huge decline during the first eight months of 2016 (Jan- Aug 2016) which stood at €51.2 billion while India's exports valued at €26.6 billion and India's imports from the EU at €24.6 billion. Over the period from April 2000 to April 2016, FDI equity flow from EU countries totaled \$73.97 billion. At present, 25.34 percent of total FDI flows to India (\$291.87billion) comes from EU. Thus, EU is India's largest source of FDI.

Despite facing challenges due to the withdrawal of few European countries from EU, India-EU merchandise trade has increased from over US\$ 21 billion in 2000-01 to over US\$ 82 billion during the financial year 2011-12 representing a four-fold increase in a span of twelve years. European countries accounted for about 20.17 percent of India's total trade during 2009-10. During 2010-11 (April –September), India's trade with Europe increased by 17.74 percent as compared to the corresponding period in 2009-10 with exports increasing by 23.25 per cent and imports by 13.87 percent.<sup>18</sup> The significant aspect of the merchandise trade between India and EU is that the total trade volume has been improving continuously since the turn of the 21<sup>st</sup> century.

Since 2007, India and the EU are in the process of negotiating a bilateral Broad-based Trade and Investment Agreement (BTIA). As of late, both sides are discussing the modalities of resumption of BTIA talks on a fast track basis. The India-EU Joint Commission dealing with economic and commercial issues meets annually, as done by its three Sub-Commissions on Trade, Economic Cooperation and Development Cooperation. The India-EU Joint Commission last met in New Delhi on 26 June 2014. The last meeting of the India-EU Sub-Commission on Trade and Economic Cooperation was held in New Delhi in October 2015.

## **SECURITY AND COUNTER-TERRORISM PARTNERSHIP**

Terrorism has been an age-old global challenge which affects entire international community; it becomes political as well as a legal and a military issue in the modern times. Terrorism has afflicted both India and the EU with the growing incidences of violent attacks in recent years. In such scenario, the relationship between India and EU is of immense significance which has steadily transformed from economic to strategic level. The other important aspects of cooperation such as defense and security, counter-terrorism are the need of hour for both partners in order to establish peace and to further prevent the proliferation of weapons of mass destruction.<sup>19</sup> India and EU attached great importance to counter-terrorism cooperation in the framework of United Nations and shared a commitment to universal ratification and full implementation of all UN Counter-Terrorism Conventions.

In March 2016, Indian Prime Minister Narendra Modi visited Belgium and addressed Indian diaspora. In his address he made clarion call for the collective efforts to define terrorism

at global level and the need to find out ways to fight this menace. He further said that “*Terrorism is not a challenge to one country or one region. Terrorism is challenging humanity so the need of the hour is that anybody who believes in humanity, all powers, have to come together to fight terror.*”

For both sides, the success over counter-terrorism should be examined via areas of convergence including cyber security, disarmament and growing vulnerabilities of State towards terror. In the wake of Paris attacks in November 2015 followed by Brussels on March 2016, various measures taken up on a war footing to meet the challenges of European security. One of the countering measure taken up at EU Interior and Justice Ministers meeting on 20 November 2015, was to implement immediately necessary systematic and coordinated checks at borders, including for EU citizens.<sup>20</sup> The random check would be done using police databases. The EU is strictly monitoring travel and money transfers and also seeks to store and assess flight data in the future.<sup>21</sup> Given the migrant crisis that Europe is presently facing, immigration xenophobia and its backlashes are raising its ugly head. In this regard, EU can tap into India’s migration problem management.<sup>22</sup>

In the aftermath of London 2004 and Madrid 2005 terror attacks and 26/11 Mumbai terror attacks in 2008, India and EU brought a Joint Declaration on International Terrorism in Brussels on 10 December 2010, which reaffirmed their “commitments to enhance counter-terrorism cooperation, as contained in the 2005 EU-India Joint Action Plan, as well as in the 2009 EU-India Summit Declaration”.<sup>23</sup> Also both sides agreed to have high-level meetings on counter-terrorism within security dialogue.

The Sixth EU-India Security Dialogue was held in Brussels on 25 October 2012. An EU-India practitioner’s workshop on counterterrorism was also held in Hague on 11-12 December 2012. Similarly, there were meetings and consultations on issues of cyber security, nuclear proliferation and disarmament and counter piracy by Indian and European Union counterparts. In brief, the evaluation of counter-terror cooperation depends on following three factors:

- The presence of EU as an actor in counter-terrorism at world politics;
- expectations and perception of India from international cooperation and;
- Opportunities offered by EU to India in combating counter-terrorism.

The India-EU Joint Declaration on Fighting against Terrorism was signed on 30 March 2016. It is noteworthy for three reasons. First, India and EU called for ‘perpetrators of attacks in Paris, Brussels, Pathankot, Gurdaspur and Mumbai to be brought to justice. Hence, leaders called for decisive and united actions to be taken against ISIL (Da’esh), Lashkar-e-Tayibba, Jaish-e-Mohammad, Hizb-ul-Mujahideen, the Haqqani Network and other internationally active terrorist groups such as Al-Qaeda and its affiliates’.<sup>24</sup>

Secondly, it calls for the need of a comprehensive approach to address terrorism. It was ‘resolved to step up cooperation to prevent and counter violent extremism and radicalization, disrupt recruitment, terrorist movements and the flow of foreign terrorist fighters, stop sources of terrorist financing, dismantle terrorist infrastructure and prevent the supply of arms to terrorists’. Thirdly, ‘the concerns were expressed at the increasing trend of radicalization of youth and the misuse of the internet. The emphasis was on the need to develop bilateral

and multilateral cooperation in the field of information and communication technology, including IT service providers to minimize the use of cyberspace by terrorist groups and to counter extremist narratives online'. Here it is pertinent to note that in 2015, India-EU dialogue was initiated to discuss cyber-security, cyber-crime, Internet governance, standards and regulation, capacity building and research and development issues from an international policy perspective.<sup>25</sup>

A noteworthy cooperation between the two sides is seen in terms of exchanging the list of banned organizations and smoothening the process of extradition by due coordination with the respective intelligence agencies (CBI-Europol Cooperation, 2008). The latest updated list released by the EU in March 2015 already includes Babbar Khalsa, Hizbul Mujahideen, the International Sikh Youth Federation, the Liberation Tigers of Tamil Eelam (LTTE) and the Khalistan Zindabad Force.<sup>26</sup> The Indian Ministry of Home Affairs has a list of 38 banned terrorist organizations.<sup>27</sup> The inclusion of more entities targeting India on the EU's own list would send a strong signal of cooperation. In the meantime, Indian experts could learn about inter-state cooperation and cyber security from the EU Counter- Terrorism coordinator through existing dialogues.

The EU and India continue to work actively towards a swift finalization of a Comprehensive Convention on International Terrorism at the UN. They not only welcomed the adoption of the first UN Counter-Terrorism Strategy by the General Assembly but also expressed their commitment to actively support the implementation of the Strategy in all its dimensions. The leaders of the two sides affirmed their commitment to combat terrorism with full respect of obligations under international law, in particular, human rights law, refugee law and international humanitarian law. Since then there has been a regular consultation on combating the menace of a single largest threat to peace and security. Strengthening cooperation to combat terrorism continues to be one of the priority areas for the EU-India Strategic Partnership.<sup>28</sup>

## **IMPACT OF BREXIT UPON INDIA**

Following possible impact scenario is delineated:

1. The first impact would be visible on currency volatility as there is a possibility of devaluation of the pound and euro. The markets across the world including India cannot remain immune to this. Sensex and Nifty would tumble in the short-run.
2. With the pound expected to fall 20 percent in the case of a BREXIT, Indian companies with a sizeable presence in the UK will have to bear the brunt. The Indian government will have to keep watching currency-based volatility, both in the short and the medium term and also to look at the impact on overall trade. India will have to rework the proposed free trade agreement with the single-currency bloc in view of BREXIT.
3. UK has always been a gateway for Indian firms to enter into EU. After BREXIT, this will cause short-term distress to Indian firms. However, in the longer run, BREXIT could help strengthen India-UK economic relationship as the UK seeks to compensate for the loss of preferential access to EU markets.

4. BREXIT adds significant pressures on the rupee. While the rupee has depreciated by a lower extent against the US dollar compared to other emerging market currencies that could well be owing to RBI's intervention to stem volatility.
5. Indian IT companies may need to establish separate offices and hire different teams for the UK and the EU after the fallout, putting heavy expenditure burden on IT companies in the near-term.
6. BREXIT might impact India-UK trade relations too. The UK is listed at 18 among India's top 25 trading partners. India's exports to the UK were \$5.3 billion in 2014-15 (share of 3% in India's total exports). After BREXIT, India may increase its exports to the UK, as the goods supplied by EU producers and the existing FTA partners of the EU will be subject to the same tariff as applicable to goods imported from India.
7. The pound is falling continuously after BREXIT. This continuous fall of the pound will immediately shave off the cost of funds as Indian companies will now have to pay less when they are repaying loans.

## CONCLUSION

India and EU transforms their ties of cooperation from bilateral to strategic one in the 21<sup>st</sup> century. Since 2004 the relationship between the two have reached the height of convergence of interests and recognitions of each other's relevance in the global arena. The areas of cooperation not remain limited to trade or economics but includes various others aspects such as political, defense and security in terms of counter terrorism, nuclear proliferation, disarmament, counter piracy, cyber security to environmental issues such as climate change and foreign direct investments and technological advancements. In sum, the relationship is important not at regional level but is of utmost significance at international level. The Year 2016 has become a landmark in strengthening of ties between the two. Still much remains to be done. In the wake of BREXIT, the strategic relationship clearly affected Indian interests at global level in terms of currency volatility and devaluation of euro but BREXIT could also help in strengthening India-UK economic ties. India has only recently allowed 100 per cent FDI in defense. Therefore, local companies would not be impacted. In the procurement policy, India has specified that indigenously designed, developed and manufactured products will get the first preference. Thus in long terms, one can hope for better prospects of cooperation between the two sides. As a rising economic power with immense scope in the European market and as an important player in counter-terrorism with a presence of strong Indian diaspora in Europe, India would continue to vie for heightened significance to EU in the near future.

## REFERENCES

1. Ahead, Right (9 June. 2017). "Brexit is a portmanteau of "British" and "exit". *Right Ahead News*, available at <http://rightahead.news/brexit-is-a-portmanteau-of-british-and-exit-it-was-derived-by-analogy-from/>

2. Revolvvy.com (29 March, 2017) “United Kingdom Withdrawal from the European Union”, *Revolvvy.com* available at [https://www.revolvvy.com/topic/United%20Kingdom%20withdrawal%20from%20the%20European%20Union&item\\_type=topic](https://www.revolvvy.com/topic/United%20Kingdom%20withdrawal%20from%20the%20European%20Union&item_type=topic)
3. China Daily (23 June. 2016). “Brexit 23 June 2016” *Chinadaily.com* available at <http://blog.chinadaily.com.cn/thread-1850682-1-1.html>
4. Dream Gains (24 June. 2016). “What is *Brexit*” *Dream Gains* available at <http://www.dreamgains.com/41555/>
5. Wikipedia, (23 June.2016). “Brexit” available at <https://www.scribd.com/document/331585598/Brexit-Wikipedia-The-Free-Encyclopedia>
6. BBC News (13 July 2016). “Boris Johnson made foreign secretary by Theresa May”, *BBC News*, available at <http://www.bbc.com/news/uk-politics-36789972>
7. Bhattacharya Purusottam, (2012). “India and Europe: Confronting Challenges of the 21st Century”, in Nalini Kant Jha and Subhash Shukla (eds), *Indies Foreign Policy: Emerging Challenges* New Delhi: Pentagon Press. pp. 77-78.
8. The Ministry of External Affairs (5 December. 2016). “India-EU Bilateral Brief”, *Government of India* available at [https://www.mea.gov.in/Portal/ForeignRelation/India-EU\\_Relations\\_December\\_2016.pdf](https://www.mea.gov.in/Portal/ForeignRelation/India-EU_Relations_December_2016.pdf).
9. Greve Giovanni and Khandekar Gauri, (2010). *Mapping EU Strategic Partnerships*, FRIDE-A European Think Tank for Global Action. p. 5. available at [http://fride.org/download/Mapping\\_Book.pdf](http://fride.org/download/Mapping_Book.pdf)
10. Khandekar Gauri, (August 2011). *The EU and India: A Loveless Arranged Marriage*, FRIDE Policy Brief, No. 90, A European Think Tank for Global Action available at [http://fride.org/download/pb\\_90\\_eu\\_and\\_india.pdf](http://fride.org/download/pb_90_eu_and_india.pdf)
11. Baroowa Saponti, (2007). “The Emerging Strategic Partnership between India and the EU: A Critical Appraisal”, *European Law Journal*, Vol. 13, No. 6, November 2007.
12. Kapur Ashok, (2006). *India from Regional to World Power*, London: Routledge, 2006.
13. Council of the European Union (8 November. 2004). “Fifth India-EU Summit The Hague, 8 November 2004”, Joint Press Statement for 5th India-EU Summit, 8 November 2004 available at [http://www.consilium.europa.eu/ueDocs/cms\\_Data/docs/pressData/en/er/82635.pdf](http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/er/82635.pdf)
14. Ibid
15. Abhyankar Rajendra M., (2007) India and the European Union: Non-Associable to Strategic Partner, in Atish Sinha and Madhup Mohta (ed.), *Indian Foreign Policy: Challenges and Opportunities* (New Delhi: Academic Foundation in association with Indian Foreign Service Institute, 2007), p. 454.
16. The Ministry of External Affairs (5 December. 2016). “India-EU Bilateral Brief”, *Government of India* available at [https://www.mea.gov.in/Portal/ForeignRelation/India-EU\\_Relations\\_December\\_2016.pdf](https://www.mea.gov.in/Portal/ForeignRelation/India-EU_Relations_December_2016.pdf)

17. Pardesai Manjeet S., and Ganguly Sumit, (2009). India and Energy Security: A Foreign Policy Priority, in Harsh V. Pant, (ed.). *Indian Foreign Policy in a Unipolar World* New Delhi: Routledge, 2009.
18. Ministry of Commerce (2011). *Commercial Relations and Trade Agreements*, Annual Report 2010-11, Government of India, available at [http://commerce.nic.in/publications/annual-report-pdf-2010-11/CHAPTER\\_7.pdf](http://commerce.nic.in/publications/annual-report-pdf-2010-11/CHAPTER_7.pdf)
19. Sibal Kanwal, (9 August, 2012). India's Defence Ties With Europe, *Indian Defence Review*, available at <http://www.indiandefencereview.com/news/indias-defence-ties-with-europe>
20. Guarascio Francesco, and Sterling Toby, (19 November, 2015). "EU to Tighten External Border Checks after Paris Attacks", *Reuters*, available at <http://www.reuters.com/article/us-france-shooting-eu-passports-idUSKCN0T81QT20151119>
21. Welle Deutsche, (30 December 2015). "The Year of Terror in Europe", *Deutsche Welle*, available at <http://www.dw.com/en/the-year-of-terror-in-europe/a-18932537>
22. Basu, Nayanima (30 April 2016). "EU to tap into India's migration problem management" *The Hindu Business Line*, available at <http://www.thehindubusinessline.com/news/world/eu-to-tap-into-indias-migration-problem-management/article8541733.ece>
23. EU-India (10 December 2010). "Joint Declaration on International Terrorism Brussels", available at [http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/en/foraff/118405.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/foraff/118405.pdf)
24. Government of India (30 March 2016). "India-EU Joint Declaration on the Fight against terrorism", Brussels, available at [http://mea.gov.in/Images/attach/FINAL\\_India-EU\\_Joint\\_Declaration\\_on\\_CT2016\\_03\\_28.pdf](http://mea.gov.in/Images/attach/FINAL_India-EU_Joint_Declaration_on_CT2016_03_28.pdf)
25. Mathew, Simon (12 May 2016). "India – EU counter-terrorism cooperation: potentialities and challenges", *Indian Defence Review*, available at <http://www.indiandefencereview.com/spotlights/india-eu-counter-terrorism-cooperation-potentialities-and-challenges/>
26. Council of the European Union (26 March. 2015). "Council Decision" available at [http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL\\_2015\\_082\\_R\\_0009&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL_2015_082_R_0009&from=EN)
27. MHA (2017). "List of Banned Terrorist Organizations Under Section 35 of Unlawful Activities (Prevention) Act, 1967", Government of India, available at <http://mha.nic.in/BO>
28. India-EU Joint Statement, (13 October 2006). available at [http://eeas.europa.eu/archives/docs/india/sum10\\_06/eu\\_india\\_joint\\_statement.pdf](http://eeas.europa.eu/archives/docs/india/sum10_06/eu_india_joint_statement.pdf)

# VIKRAMSHILA UNIVERSITY: FORGOTTEN GLORY OF ANCIENT INDIA

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## ABSTRACT

*Vikramshila, in modern day Bihar, was one of the centers of high learning in India during medieval age. It represented the great tradition of knowledge and continued the legacy of Taxila and Nalanda. Its special contribution was the propagations of Buddhism in Tibet, Pegu and Ceylon. Particularly in Tibet, Vikramshila is said to have contributed to the foundation of Tibetan culture. Vikramshila contributed to the evolution of new sect of Buddhism that dominates much of the Himalayan region. It also proved to be an important center of art, particularly the Pala School of art centered on the use of basalt. The destruction of Vikramshila at the hands of Turks, not only put an end to the bright academic journey of Vikramshila, but also terribly shattered the great Indian tradition of knowledge. The paper seeks to highlight the contribution of the university in a nutshell.*

**Keywords:** Atisha, Bakhtiyar Khilji, Nalanda, Naropa, Pala, Pegu, Taxila, Turks.

## INTRODUCTION

India, the pious land of knowledge and salvation, registered a number of achievements in various fields in ancient era, which were unmatched in the contemporary world. It was primarily in the field of knowledge and education, ancient India witnessed stupendous achievements and led the world in this domain. The original word for India is 'Bharat-Varsh' which consists of three words – 'Bha', 'rat' and 'Varsh' that means knowledge, flinging oneself into activity and the land respectively. Thus Bharat happens to be the land of those flinging themselves into knowledge. True to its meaning, prime significance is attached to knowledge on this land, for worldly and spiritual pursuits through it.

In ancient Indian tradition, knowledge was supposed to facilitate both spiritual liberation and perfection in worldly skills for earning livelihood.<sup>1</sup> True to the supposed characteristics

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of knowledge, formal and informal centres of learning kept on emerging in ancient India which underwent important changes with the passage of time according to the changing socio-economic milieu and the subsequent changes in the parameters of education. Earlier, education centered on the teacher's home, known as *Gurukul*, where the Vedas constituted the main subject of study, in addition to the arithmetic, grammar and prosody. Throughout the Vedic period, education was mainly based on *Shrutis* and *Smritis* and imparted orally.<sup>2</sup> But since the Sixth century B.C., which is an important landmark in ancient Indian history for expansion of agriculture, trade, commerce, proper taxation and introduction of coins, socio-economic landscape changed rapidly leading to the emergence of Mahajanpadas on the one hand and several heretical sects on the other. With this rapid change in the society, the method of education also underwent great changes.<sup>3</sup> Now onwards Buddhist sangha and later on the Buddhist monastery emerged as the prime centers of learning. Each monastery *might* give training to postulants, but quite early in the history of Buddhism, certain establishment acquired a special reputation as the centers of learning. In the course of time, some developed into true universities such as Taxila, Nalanda and Vikramshila.<sup>4</sup>

## ANCIENT WORLD UNIVERSITIES

As far as the history of University in the world is concerned, the ancient world certainly saw the flourishing of the centers of higher learning. Such institutions existed during 200 B.C. in Alexandria, Athens and Constantinople and later at Beirut, Bordeaux, Lyons, etc. But the growth of Christian supernaturalism and mysticism, and the inroads of the barbarians from the north and south had mostly put an end to these before 800 A.D. After that the Eastern Muslims founded universities in Baghdad, Basra, Cairo and other places, but most of these centres of learning came to an end early in the twelfth century. Then arose in Spain at Cordova, Toledo, Seville, the universities of the Western Muslims which after lasting for about a century were suppressed by orthodox fanaticism about 1200 A.D. The Muslim universities had taken a broad sweep including in their curriculum not only the liberal arts, but also medicine, philosophy and theology. When they were closed, Christian Europe felt the need for universities of their own and established them during the middle ages. The oldest among them which received official recognition were the Universities of Paris and Bologna founded in the twelfth century. It is, however, claimed that the University of Oxford dates back to the ninth century and its foundation has been attributed to King Alfred. This is not unlikely though the claim is not substantiated by sufficient documentary evidence. The majority of the present universities in Europe and America are the offsprings of the medieval universities of Europe. The universities of ancient India have a prouder history than that of their counterparts in the ancient western world. At least one of them, viz., Taxila, flourished several centuries before the Universities of Alexandria, Athens and Constantinople. The universities of ancient India had also a more impressive teaching and research programme. The teachers who taught in the hallowed precincts of Taxila, Nalanda and Vikramshila were scholars of high eminence and repute. This is not all. The cordial relationship that existed between them and their students was indeed sublime. Such ideal teacher-student relationship has no parallel in the long history of educational thought and practice.

## HISTORICAL BACKGROUND OF VIKRAMSHILA UNIVERSITY

Taxila became the first and foremost educational center of ancient India. The *Jatakas* also mention Banaras as a great center of learning which was established mostly by the students of Taxila. Later, Nalanda, situated in the Magadha region, the power centre of India, grew to be the foremost Buddhist monastery and educational Centre. Most of what we know of Nalanda University during sixth and seventh century A.D. is due to the account left by the Chinese pilgrims, Xuanzang and Yijing. Later, Magadha lost the glory as the power center of India after the demise of Harshvaradhana in 646 A.D., giving way to the rise of Pala dynasty that ruled over Bengal and Bihar for a substantial Period. The Pala rulers kept on patronizing the Nalanda University, but they also felt the necessity to set up another sister institution of the Nalanda University near Bhagalpur in the eastern Bihar. The Vikramshila University came into being and was founded by a monk called Kampala, under the patronage of the king Dharmapala (r.770-810 A.D.). The king granted land endorsement for its upkeep. Other Pala rulers also continued the patronage to the institution.

Meanwhile, Buddhism itself was undergoing important changes and a new sect, within the Mahayana School, emerged. It was known as Vajrayana. It was the Tantric form of Buddhism, which centered on worshipping Goddess Tara and followed religious doctrines teaching magical and mystical formularies for the worship of deities or the attainment of supreme power. It is to be stressed upon that the worship of mother goddess had become prominent all over India by the 7th century A.D. and various sects of tantrism arose all over India, which gave importance to special and secret method of worship based on Tantra, Mantra and Yantra.<sup>5</sup> Buddhism also got influenced by the emergence of Tantrism which gave way to the rise of Vajrayanism within it.

Vikramshila developed as an important and exclusive center of this new sect. Thus under the continued enthusiastic patronage of the Pala rulers and the emerging center of the new form of learning within Buddhism, Vikramshila attracted a number of scholars and students and it soon outshined the Nalanda University and established itself as the premier center of higher learning in India in the early medieval period. It remained in the leading position till it was destroyed by Bakhtiyar Khilji in 1203 A.D.

## ARCHAEOLOGICAL EXPLORATION

Tibetan scholar Taranath first recorded its existence, calling it Vikramshila Mahavihara. After its destruction, the site was abandoned and it remained hidden for centuries. As per Tibetan mythology, a *yaksha* called Vikramshil was suppressed here, thus giving the place its name.<sup>6</sup> The exact location of the Vihara could not be ascertained for long time. Dr. S.C. Vidyabhushana identified it with the Sultanganj in Bhagalpur district and Alexander Cunningham, with the village Silao near Badagaon. However the original location was discovered when once Laxmikanta Mishra found a mound at Antichak village near Kahalgaon in Bhagalpur district. He collected bricks from the debris and sent them to the History Department of Patna University. Thereafter, some students of the university started excavating the site, but nothing substantial was found. In 1962, the Archeological Department of Patna

University, along with the Archeological Survey of India, under the leadership of D.C Varma, undertook the project to explore the place. Excavation continued till 1969. The ASI again conducted excavation between 1972 and 1982.<sup>7</sup> From these two big projects a huge square monastery with cruciform *stupa* at its centre, a library, various small *stupas* and plethora of Hindu and Tibetan temple sculptures were unearthed. It was one of biggest the archeological excavations in independent India.

## **BUILDINGS AND INFRASTRUCTURE**

The buildings at Vikramshila were well planned and accommodative. There were one hundred and eight temples and six college buildings, spread-out like Lotus petals, with beautiful Mahabodhi temple in the center with its six gates leading to the six colleges. This central *stupa* had been the main attraction of the site. Like many other Buddhist sites of worship, here the central *stupa* is supplemented by several miniature *stupas*. The central *stupa*, probably constructed on the remains of Buddha, is made of bricks and solid mud. The two-storied *stupa* is 15m high. Each level is around 2.5m high and the two terraces are decorated with circumambulatory path that can take one around the structure. Walls of both the terraces are embellished with terracotta panels, although many of them are now defaced.

Then there was a residential block meant for monks. This section, which was once a huge structure, now exists in ruins in a shape of a square plot measuring 330m on each side. It has a majestic entrance from north with each flank containing four large chambers. The roof, which is now gone, was once supported by huge pillars. Many of them are still scattered on the ground. The monastery has a total of 208 cells, 52 on each side, for students as well as teachers. A common verandah connects all cells and steps are descending down from the centre to a courtyard. Every cell has three beds. Also, each block has a planned drainage system. The ruins of the library building give the testimony of Vikramshila's paramount importance as a centre of Buddhist learning. South of the main monastery, the library is a huge complex. A big reservoir with water, aimed at conditioning the back wall of the building, is also an engineering marvel. This was mainly designed to preserve priceless manuscripts.<sup>8</sup>

## **STUDENTS AND COURSES**

Like the other Universities, this University also provided specialized instruction in various subjects. Buddhist textbooks belonging to both branches of Buddhism- Mahayanism and Hinayanism- were taught. Along with these all the important branches of Hindu learning were also taught, although they could not be classified as Buddhist in nature. This can be explained by the fact that Buddhism is not entirely new religion as some believe. It is merely a phase of Buddhism and in most of its social and religious aspects resembles its parent faith. Though the course didn't cover all the branches of Hindu Sciences but special stress were laid on grammar, logic, metaphysics and ritualism.<sup>9</sup> A special significance was attached to study of Tantras.

In order to ensure a high standard of learning students were admitted to the University only if they satisfied the tests given by eminent authorities in charge of various subjects. Six

erudite teachers guarded the six gates leading to the university. Tibetan sources chronicle that at one time, there were six eminent logicians posted for the work. Ratnakarasanti was placed at the east gate, Vagisvarakirti at the west, Naropa at the north, Prajnakaramati at the south, Ratnavajra at the first central gate and Jnana Srimitra at the second gate.<sup>10</sup>

For smooth functioning of administration, there were boards in charge of different duties connected with the day-to-day working of the university; one chief abbot worked as the president of these various boards. There was complete academic autonomy and the teachers in charge of various departments were responsible for the academic work conducted in their departments.

## **SCHOLARS AND TEACHERS**

As the leading learning center of the period, the Vikramshila University attracted a number of scholars who were well known not only in India but even beyond her frontiers for the depth and the width of their learning. It has been pointed out that when the university was started, King Dharmapala of Bengal, its first patron, had appointed one hundred and fourteen teachers. A number of scholars came from other parts of India as well as from other countries. It has been mentioned that in the twelfth century there were 3,000 monk scholars studying at this university. Acharya Buddha Jnanapada was the founder of the new cult, Vajrayanism, of which Vikramshila was the only center in those days. He was appointed first as the priest of King Dharmapala(r.774-806) and later as the Acharya for ordination at Vikramshila. Vairochara Rakshita, Jetari, Prajnakaramati, Ratnakarasanti, Jnana Sri, Ratnavajara, Vagishvarakirti, Acharya Atisha, Abhyankargupta, Tathagatrakshita, Manjusri and Dharmakirti were important scholars attached with the Vikramshila University.<sup>11</sup>

## **VIKRAMSHILA UNIVERSITY AND THE PROPAGATION OF BUDDHISM**

The most outstanding contribution of the Vikramshila University was in the field of the propagations of Buddhism in Tibet. The University had developed literacy and cultural contacts with Tibet. Scholars from Tibet were particularly interested in the Tantras, for the teaching of which special arrangements were made at the University all throughout the four hundred years of its existence. It was Vikramshila scholars who, as the custodians of piety, knowledge and religion have practically built up the culture and civilization of Tibet. Many of these scholars wrote books on various sciences in Sanskrit and translated quite a few in Tibetan. Scholars in large numbers poured in from Tibet for whom a special arrangement for boarding and lodging was made. Vairochara Rakshita, Ratnavajra and Dipankara Sri Jnana also known as Acharya Atisha were among those who visited Tibet, translated several books into Tibetan and preached Buddhism there. The tallest among them was Acharya Atisha. Born in a royal family in 980 A.D., he took the sacred vow at nineteen. At thirty-one, he received the highest ordination. He was the master of Hinayana and Mahayana, Vaisheshika and Tantras. After completing his education he sailed to Suvarnadwipa(Pegu) and was further initiated into the mysteries of Buddhism by Acharya Dharmakirti Sri. There he studied for twelve years. On

his return to India he defeated many scholars and was appointed head at Vikramshila. Later he went to Nepal at the invitation of King Lha Chanchub of Guge Kingdom, Ngari in Tibet who was anxious to purge Tibetan Buddhism of its corruptions which were many and gross. There he founded the new religion of Lamaism. He worked in Tibet for thirteen years and died at the age of seventy three. About two hundred works on Vajrayana are ascribed to him. He also translated twenty two Sanskrit works into Tibetan.<sup>12</sup> He was helped by Viryasinha (Tibetan Name: Lotsava-rgya-btson-senge) in translating Sanskrit works into Tibetan. Apart from Tibet, Buddhism was preached in Ceylon also. Ratnakarashanti wrote thirteen works in Sanskrit and preached Buddhism in Ceylon, where he was invited for that work. Dharmakirti was a native of Tibet itself. He learnt Sanskrit at Vikramshila and translated several Sanskrit works into Tibetan.

### **VIKRAMSHILA UNIVERSITY AND ART**

From the archaeological excavation of the site of Vikramshila University, we find many examples of art and sculpture. An archeological museum has been set up in November 2004, which displays priceless piece of work excavated from the site. Apart from several Buddha figurines; there are statues of Lokanatha, Mahakala, Tara and others. Among Hindu statues, we find Uma, Ganesh, Kuber and Mahishasuramardini (proto-type of Durga). All these statues are carved according to the Pala School of art. Some of them are made of thick basalt with an everlasting shine. Other stuff in display is terracotta motifs, coins, household utensils, some inscriptions, iron arrowheads, ornaments, daggers etc. It was also customary in this university to exhibit on walls the portraits of leading alumni with outstanding merit. In accordance with this custom, two portraits of Nagarjuna and Atisha were exhibited on walls of the university.

### **DESTRUCTION OF VIKRAMSHILA**

Vikramshila touched the zenith of its glory during the 12<sup>th</sup> century under the rule of Ramapala (r. 1072-1126). Later, the rule of Pala dynasty came to an end due to internal conflicts, feudal uprisings and external aggression. Bengal came under the rule of Sena Dynasty. During the reign of Lakshmana Sena (r. 1178-1205 A.D.), Bengal had to face the Muslim invasions under the leadership of Bakhtiyar Khilji, who occupied Lakhnauti, capital of Senas, in 1202 A.D. In the course of occupation of Bengal by Bakhtiyar Khilji, the tragic end of university came. Vikramshila became just deserted debris. Sadly, it was Bakhtiyar Khilji who had destroyed the Nalanda University also. All the monks residing at the place had their heads shaved, and they were all slain. The glory of Vikramshila got vanished.

### **CONCLUSION**

Vikramshila, one of the centers of high learning in India during medieval age. It was unique in its organization and scholarship during those distant times when, elsewhere in world very few had thought of organized education at the university level. It represented the great tradition of knowledge and continued the legacy of Taxila and Nalanda. During this period, it was the

lone centre of higher learning in India, which catered to the needs of scholars and students having aspiration of excelling in higher education. It proved to be the formidable centre where new knowledge was created and disseminated far and wide. Its special contribution was the propagations of Buddhism in Tibet, Pegu and Ceylon. Particularly in Tibet, Vikramshila is said to have contributed to the foundation of Tibetan culture. Due to Vikramshila University, India became center of attraction for her neighborhood and India remained in touch with the development around her. From the cultural point of view, Vikramshila, apart from education, contributed to the evolution of new sect of Buddhism. It also proved to be an important center of art, particularly the Pala School of art centered on the use of basalt. Sadly, the destruction of Vikramshila at the hands of Turks, not only put an end to the bright academic journey of Vikramshila, but also terribly shattered the great Indian tradition of knowledge.

## REFERENCES

1. *Vishnu Purana*, 1.19.41
2. Tyagi, Anil Kumar (1995). *Learning and Education System in India in Ancient India*, New Delhi: Publication Division, Government of India, p.145.
3. *Ibid.*, p.146.
4. Basham, A.L (1967). *The Wonder That Was India*, Calcutta: Rupa. 16<sup>th</sup> impression, 1992, p. 166.
5. Mishra, Jaishankar (1986). *Prachin Bharat ka Samajik Itihas*, Patna: Bihar Hindi Grantha Academy, 10 Edition, p. 838.
6. Gupta, Somensen (30 June, 2013). "Revisiting Vikramshila", *The Pioneer*.
7. *Searchlight*, an Indian daily, carried an account of the discovery of the ruins of Vikramshila on 25 April 1980, as cited in "*The Six Buddhist Universities of Ancient India*" by D. Amarasiri Weeraratne available at [www.island.lk/2003/05/15/featur05.html](http://www.island.lk/2003/05/15/featur05.html) retrieved date 25 August 2017
8. Gupta, op.cit.
9. Mishra, op.cit, p. 542.
10. Apte, D.G (1900). *Universities in India*, Faculty of Education and Psychology, Maharaja Sayajirao University of Baroda, p-51. Available at <https://ia600203.us.archive.org/27/items/cu31924005633130/cu31924005633130.pdf> *Ibid*, 56
11. *Ibid.*, 54

# INDOOR AIR QUALITY AND ITS IMPACT ON HEALTH OF GUJJARS OF NORTH KASHMIR HIMALAYAS

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## ABSTRACT

*Indoor air pollution is one of the four most critical global environmental problems. It exposes more people worldwide to various air pollutants than does pollution in outdoor air. The study aims to analyze the impact of indoor air pollution on health of Gujjars of North Kashmir Himalayas. Gujjars are ethnic population settled in higher altitudes of Kashmir valley. Stratified sampling was used for the study. Findings shows that Gujjars have inadequate housing, low income and use firewood for cooking purpose. Majority of Gujjar families cook food twice a day for duration of two hours. From the finding it was also revealed that respiratory problems are very frequent in different altitudinal zones. The underlying reason may lie in the rampant use of firewood for cooking purpose.*

**Keywords:** Disease Incidence, Gujjars, Indoor air, Stratified Random Sampling.

## INTRODUCTION

Indoor air pollution can be defined as the totality of attributes of indoor air that affects a person's health and well being. Indoor air pollution is one of the four major critical global environmental problems and probably exposes more people worldwide to important air

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pollutants than does pollution in outdoor air (Park, 2005). Around 50 percent of people in developing countries rely on wood, dung and crop residues for domestic energy. Indoor air pollution, the source of pollution with the greatest health consequences, remains unseen. The sources of these indoor air pollutants are innumerable, but the most important identified source by the World Health Organization (WHO) is cooking with solid fuels (Selah, 2012). Indoor air pollution increases the risk of chronic pulmonary disease and of acute respiratory infections in childhood (Bruce, Padilla and Albalak, 2000). Biomass fuels are the source of domestic energy. But, these are important source of indoor air pollution and probably one of the most important occupational health hazards for women's health (Koning, Smith, and Last, 1985). Environment has great and obvious effects on health as poor residents are often seen at zones, which imply poor health (Olanrewaju and Akinbanigo, 2002).

The relationship between housing and health in Ladakh has shown considerable regional variation that can be attributed to fact of variation in housing environment (Rather, Dar & Bhat, 2014). Indoor air pollution level depends on factors such as cooking fuel used, level of ventilation and smoking (Rahman, 1998).

There is a need to assess the cooking energy uses, monitoring of indoor pollutant levels and make people aware of the hazardous effects on a person's health, women in particular (Jamal and Singh, 2012). According to recent findings, indoor air pollution is five times more hazardous than outdoor air pollution and the major source, the solid fuels is the second most environmental cause of disease after water-borne diseases and fourth most important in causing overall excess mortality and burden of diseases (WHO, 2002).

There are four principal sources of pollutants of indoor air, (i) Combustion, (ii) building material, (iii) the ground under the building; and (iv) Bio aerosols (Behera, 1991). The exposure to indoor smoke is particularly high among women and children because women are responsible for cooking and children often spend time with their mothers while they are engaged in cooking. Women generally begin regular cooking or start assisting in cooking around the age of 12 to 15 which leads to longer period of exposure to pollutants. Women spend between 3 to 7 hours per day near the stove for cooking food (Singh, 2010).

The indoor air pollution originates because a person normally spends nearly 16/24 hours inside the house (Singh *et al.*, 1996). So, it is the need of the hour to reflect seriously about the indoor environment and its impact on the health. The present study aims to analyse the impact of indoor air on health among Gujjars in North Kashmir Himalayas. Gujjars are native and ethnic group settled at higher altitudes of North Kashmir Himalayas and are socially, economically excluded by mainstream inhabitants of the valley. Gujjars of Kashmir valley are sedentary in nature, settled in foothills and higher reaches of mountains.

## LITERATURE REVIEW

Clean air is a basic requirement of life. The quality of air inside homes, offices, schools, day care centres, public buildings, health care facilities or other private and public buildings where people spend a large part of their life is an essential determinant of healthy life and people's well-being (WHO, 2010).

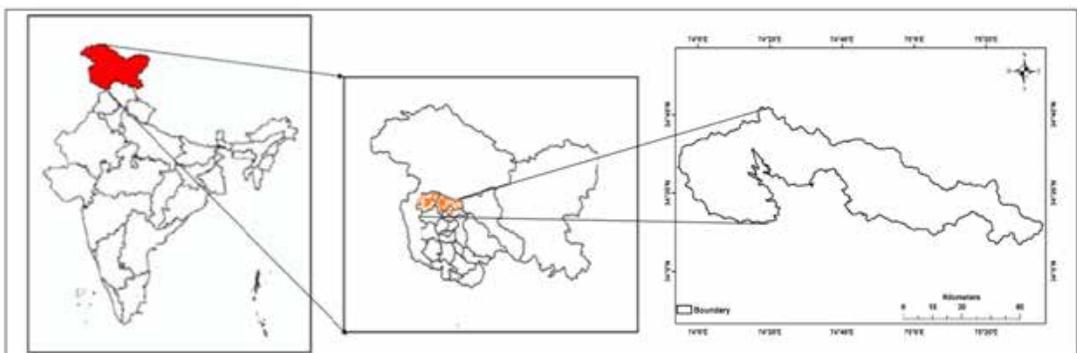
Globally, almost three billion people rely on biomass (wood, charcoal, crop residues, and dung) and coal as their primary source of domestic energy. Exposure to indoor air pollution from the combustion of solid fuels has been implicated, with varying degrees of evidence, as a causal agent of disease and mortality in developing countries (Ezzati and Kammem, 2002). Bruce, Perez and Albalak (2000) carried out research on indoor air pollution in developing countries and found that there is consistent evidence that indoor air pollution increases the risk of chronic obstructive pulmonary disease and of acute respiratory infections in childhood, the most important cause of death among children under 5 years of age in developing countries.

There are many sources of indoor air pollution in any home. These include combustion sources such as oil, gas, kerosene, coal, wood, and tobacco products (Central Pollution Control Board, 2014). Singh and Jamal's study(2013) focuses on experimental study of indoor air quality regarding  $PM_{10}$ ,  $PM_{2.5}$ , CO,  $CO_2$ , NO,  $NO_2$ ,  $SO_2$  in selected differently used areas. Cooking places (kitchen) at different locations using different types of cooking fuel used and living room were selected for the purpose of the measurements. For the purpose of pollutant monitoring 20 households for each having different types of kitchen using biomass fuels and LPG were selected. The indoor air quality of the living room of those households was also assessed for the purpose of comparison. The indoor environment was measured with handy portable samplers.

Rather, Dar and Bhat (2013) studied various aspects of residential environment and related health problems in high altitude cold desert of Ladakh. The investigation reveals that traditional residential adjustment because of harsh climatic conditions leads to various aspects of poor housing such as overcrowding, bad sanitation and inadequate maintenance that in turn have been identified as contributing to the impact of housing on health. Majority of households are lacking behind in all recommended housing standards and are suffering from both respiratory and infectious diseases. The present study seeks to assess and quantify the health impact of housing conditions and attempts to formulate a planning strategy that shall be helpful for future health care planning.

## STUDY AREA

North Kashmir Himalayas (**Fig.1**) is a part of Great Kashmir Himalayas which lies between  $34^{\circ}16'$ -  $34^{\circ}40'$  North Latitude and  $73^{\circ}45'$  -  $75^{\circ}35'$  East Longitude. The mountainous



**Figure 1: Study Area**

range has an average altitude of 2324 meters and stretches over an area of 3934.5 Km<sup>2</sup>. North Kashmir Himalayas take a bend towards the southwest near Zojila to Kazinag. North Kashmir Range acts as a water divide between Jhelum in Kashmir valley and Kishanganga of Gurez valley (Raza *et al.*, 1978).

## DATA BASE AND METHODOLOGY

The study is based on both primary and secondary data sources. The data related to selected parameters like housing, income, education, fuelwood used for cooking, duration of electricity and satisfaction level was generated by schedule method using stratified random sampling. A sample size of 20 percent of the total Gujjar villages and 8 percent of the households was selected for the sample survey. The Gujjar villages having population of 200 persons were not taken into consideration as most of the villages have mixed population of Kashmiri and Gujjars. The sample households were selected from different altitudinal zones based on the concentration of Gujjar villages in different altitudinal zones (**Table 1**). Therefore a Household survey of 557 sample households was carried out to study the impact of indoor air on health of ethnic inhabitants in North Kashmir Himalayas. Various diseases were identified during the primary survey like respiratory diseases, cardiac diseases, renal problems, gastric diseases, jaundice and thyroid.

**Table 1: Sample Frame**

Altitudinal Zone (in mtr)	Total Households	Total Population (Persons)	Household Sample Size
Zone A (1600-1800)	1543	10053	125
Zone B (1800-2000)	2291	17022	184
Zone C (2000- 2200)	1983	14208	159
Zone D (2200-2400)	421	3096	33
Zone E (2400 and above)	703	6381	56
<b>Total</b>	<b>6941</b>	<b>50760</b>	<b>557</b>

(Source: Census, 2011)

## RESULTS AND DISCUSSIONS

### Kitchen Facility, Frequency And Duration Of Cooking

Kitchen work includes various processes that are involved before and after cooking such as marketing, cutting of vegetables, kneading the flour, grinding the spices, cleaning grains, serving food to family members and feeding young ones, washing utensils, cleaning kitchen etc. The number of meals cooked determines the total exposure. From the Table 2, it is seen that 90 percent households have separate kitchens. About 87.5 percent households cook food twice a day. The highest percentage of cooking twice a day was found in Zone D (93.9 percent). Most of the zones have two hour duration of cooking. About 73 percent households in Zone E have 2 hour duration of cooking followed by Zone A (71.2 percent).

**Table 2:Kitchen Facility, Frequency and Duration of Cooking**

Altitudinal Zone in (mtr)	Sample Village	Sample households	Place of cooking food		Frequency of cooking		Duration of cooking	
			Separate kitchens	Rooms	Two times	Three times	1 hour	2 hours
Zone A (1600-1800)	Gund Saderkoot, Aloosa, Ahmi Sharief, Chitibandi	125	124 (99.2)	1 (0.8)	99 (79.2)	26 (20.8)	36 (28.8)	89 (71.2)
Zone B (1800-2000)	Muqam, Malangam, Kalrooch, Manigam, Shiltra, Kuli-gam, Sumlar, Akhal, Hayan	184	175 (95.1)	9 (4.9)	163 (88.6)	21 (11.4)	84 (45.7)	100 (54.3)
Zone C (2000-2200)	Chunt Waliwar, Khurhama, Chuntmullah, Wangat, Chatargul	159	141 (88.7)	18 (11.3)	140 (88.1)	19 (11.9)	73 (45.9)	86 (54.1)
Zone D (2200-2400)	Farkhan, Erin Dardpora, Kolan	33	28 (84.8)	5 (15.2)	31 (93.9)	2 (6.1)	18 (54.5)	15 (45.5)
Zone E (2400-5300)	Gagangeer, Ganiwan	56	46 (82.1)	10 (17.9)	49 (87.5)	7 (12.5)	15 (26.8)	41 (73.2)
	<b>TOTAL</b>	557	514 (90.0)	43 (10.0)	482 (87.5)	75 (12.5)	226 (40.3)	331 (59.7)

(Source: Sample Survey, 2016)

**Note:** Figures in parenthesis represent percentage to total

### Fuel Used for Cooking

Cooking fuel is the basic need of each and every household, but the difference lies in their types whether traditional or modern or combination of both is utilized for cooking. In North Kashmir Himalayas it was found that traditional fuel is mostly used. From the Table 3, it is evident that 100 percent households were using firewood in all altitudinal zones. In Zone D, about 93.9 percent households are using cow dung for cooking purpose. The usage of gas is very less in all the zones (11.4 percent). Zone A (14.4 percent) and Zone B (13.6 percent) has highest percentage of households using gas for cooking purpose. Kerosene is not regularly used for cooking purpose because it is not easily available and many of Gujjar families are unaware about the distribution system.

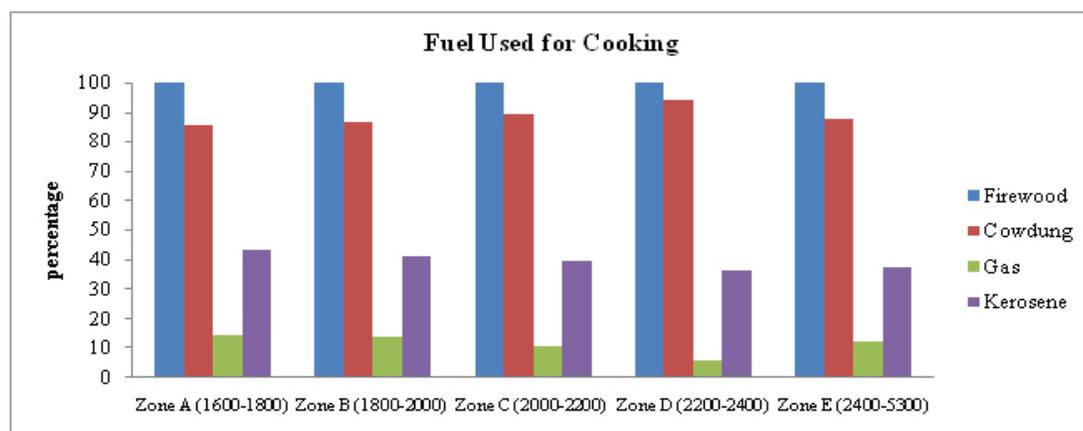
The average household consumption of firewood in all altitudinal zones was found to be 16.8 kg/day/ household. The firewood is used in different ways like cooking food and charcoal for warmth in winters. The highest firewood consumption was found in Zone D and E (19kg/day and 18kg/day) and lowest consumption was found in Zone A (14kg/day).

**Table 3: Fuel Used for Cooking**

Altitude Zone in (mts)	Sample Village	Sample households	Fuel used for cooking			
			Firewood	Cow dung	Gas	Kerosene
Zone A (1600-1800)	Gund Saderkoot, Aloosa, Ahmi Sharief, Chitibandi	125	125 (100)	107 (85.6)	18 (14.4)	54 (43.2)
Zone B (1800-2000)	Muqam, Malangam, Kalrooch, Manigam, Shiltra, Kuligam, Sumlar, Akhal, Hayan	184	184 (100)	159 (86.4)	25 (13.6)	76 (41.3)
Zone C (2000-2200)	Chunt Waliwar, Khurhama, Chunt- mullah, Wangat, Chatargul	159	159 (100)	142 (89.3)	17 (10.7)	63 (39.6)
Zone D (2200-2400)	Farkhan, Erin Dard- pora, Kolan	33	33 (100)	31 (93.9)	2 (6.1)	12 (36.4)
Zone E (2400-5300)	Gagangeer, Ganiwan	56	56 (100)	49 (87.5)	7 (12.5)	21 (37.5)
	<b>TOTAL</b>	557	557 (100)	488 (88.6)	69 (11.4)	226 (39.6)

(Source: Sample Survey, 2016)

**Note:** Figures in parenthesis represent percentage to total



**Figure 2: Distribution of Fuel used for Cooking**

### Heating Arrangements

Heating arrangements like kangri and wood burning bukhari are also sources of indoor air pollution especially in North Kashmir Himalayas. From the Table 4, it is known that about 78.6 percent households in Zone E are using bukhari followed by Zone C (43.4 percent). Kangri is mostly used in Zone A (74.4 percent) followed by Zone B (70.7 percent).

**Table 4: Heating Arrangements**

Altitude Zone in (mtr)	Sample Village	Sample House-holds	Heating arrangement	
			Bukhari	Kangri
Zone A (1600-1800)	Gund Saderkoot, Aloosa, Ahmi Sharief, Chitibandi	125	32 (25.6)	93 (74.4)
Zone B (1800-2000)	Muqam, Malangam, Kalrooch, Manigam, Shiltra, Kuligam, Sumlar, Akhal, Hayan	184	54 (29.3)	130 (70.7)
Zone C (2000-2200)	Chunt Waliwar, Khurhama, Chuntmullah, Wangat, Chatargul	159	69 (43.4)	90 (56.6)
Zone D (2200-2400)	Farkhan, Erin Dardpora, Kolan	33	14 (42.2)	19 (57.6)
Zone E (2400-5300)	Gagangeer, Ganiwan	56	44 (78.6)	12 (21.4)
	<b>TOTAL</b>	557	213 (43.9)	344 (56.1)

(Source: Sample Survey, 2016)

**Note:** Figures in parenthesis represent percentage to total



**Figure 3: Bukhari & Kangri**

## HIGH ALTITUDE RESIDENTIAL ENVIRONMENT DISEASES

There is a direct relationship between housing and health. Health statistics in some of the western cities and metropolitan areas indicate that poor health is one of the essential by-products of defective or deteriorated housing (Smith, 1966). Singh *et al.* (1996) found that increased urban population in the developing countries has created a serious threat to environmental conditions within living areas. They concluded that income, housing and health are closely related with each other. The study was based on primary data and random sampling was used to collect information of households categorized on the basis of income.

The parameters used were housing conditions, bathroom facility, sanitation facility, water supply, indoor air and noise pollution. An attempt has been made to investigate the health implications of poor housing conditions in Srinagar city by Singh and Baba (2015). Various housing indicators were identified and correlation was established between housing conditions and diseases. The study revealed that there is a positive relationship between the socio-economic conditions of households and frequent occurrence of air borne diseases. Drinking water is a major source of microbial pathogens in developing regions, although poor sanitation and food sources are integral to enteric pathogen exposure. Gastrointestinal disease outcomes are also more severe, due to under-nutrition and lack of intervention strategies in these regions. Poor water quality, sanitation and hygiene account for some 1.7 million deaths a year world-wide mainly through infectious diarrhoea. Nine out of 10 such deaths are in children and virtually all of the deaths are in developing countries (Ashbolt, 2004).

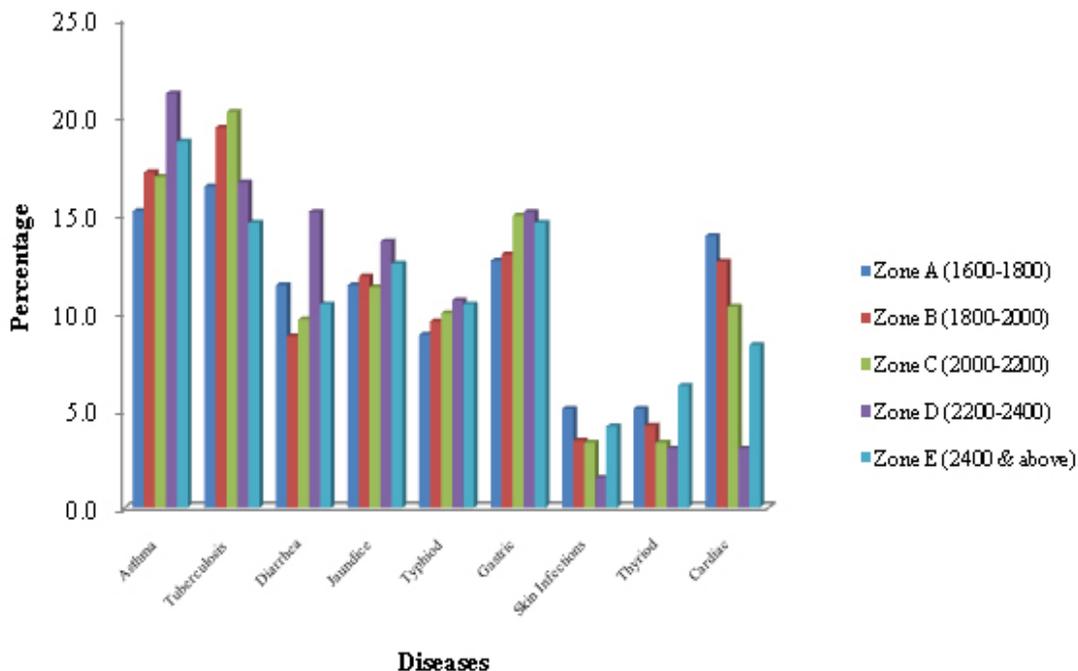
In North Kashmir Himalayas, drinking water quality is good except in Zone A and E. Parameters like suspended solids and coliform are above the standard limits in all zones. Coliform bacteria may not cause disease, but are one of the indicators of pathogenic contamination that can cause diseases such as intestinal infections, dysentery, hepatitis, typhoid fever, jaundice, cholera and other illnesses (Emmanuel *et al.*, 2009). Out of the total sample population the number of persons suffering from diseases was found to be 756 (26.3 percent). During the survey, nine diseases were found prevalent among the Gujjars of North Kashmir Himalayas namely asthma, tuberculosis, diarrhea, jaundice, typhoid, gastric, skin infections, thyroid and cardiac problem. Out of these nine diseases, respiratory infections (asthma and tuberculosis) were most frequent in each altitudinal zone. The reason clearly lies in the use of firewood for cooking. The highest incidence of diseases was found in Zone D (43.7 percent) followed by Zone C (38.3 percent) as shown in Table 5. The lowest incidence of diseases was found in Zone A (9.3 percent) followed by Zone E (16.6). Gastric problem was also found in Zone D (15.2 percent). The reason could be bad housing, poor water quality, low income, primary occupation and poor standard of living.

**Table 5: Incidence of Residential Environment Disease among Gujjars of North Kashmir Himalayas**

Altitudinal Zone (mts)	Sample Village	Total Reported Cases	Diseases									
			Asthma	T.B	Diarrhea	Jaundice	Typhoid	Gastric	Skin Infections	Thyroid	Cardiac	
Zone A (1600-1800)	Gund Saderkoot, Aloosa, Ahmi Sharief, Chitibandi	79 (9.3)	12 (15.2)	13 (16.5)	9 (11.4)	9 (11.4)	31 (11.8)	7 (8.9)	10 (12.7)	4 (5.1)	4 (5.1)	11 (13.9)
Zone B (1800-2000)	Muqam, Malangam, Kalrooch, Manigam, Shiltra, Kuligam, Sumlar, Akhal, Hayan	262 (26.7)	45 (17.2)	51 (19.5)	23 (8.8)	31 (11.8)	25 (9.5)	34 (13.0)	9 (3.4)	11 (4.2)	33 (12.6)	
Zone C (2000-2200)	Chunt Waliwar, Khurhama, Chuntmullah, Wangat, Chatargul	301 (38.3)	51 (16.9)	61 (20.3)	29 (9.6)	34 (11.3)	30 (10.0)	45 (15.0)	10 (3.3)	10 (3.3)	31 (10.3)	
Zone D (2200-2400)	Farkhan, Erin Dardpora, Kolan	66 (43.7)	14 (21.2)	11 (16.7)	10 (15.2)	9 (13.6)	7 (10.6)	10 (15.2)	1 (1.5)	2 (3.0)	2 (3.0)	
Zone E (2400-5300)	Gagangeer, Ganiwan	48 (16.6)	9 (18.8)	7 (14.6)	5 (10.4)	6 (12.5)	5 (10.4)	7 (14.6)	2 (4.2)	3 (6.3)	4 (8.3)	
<b>Total Average</b>		<b>756 (26.9)</b>	<b>131 (17.9)</b>	<b>143 (17.5)</b>	<b>76 (11.1)</b>	<b>89 (12.1)</b>	<b>74 (9.9)</b>	<b>106 (14.1)</b>	<b>26 (3.5)</b>	<b>30 (4.4)</b>	<b>81 (9.6)</b>	

(Source: Sample Survey, 2016)

Note: Figures in parenthesis represent percentage to total



**Figure 4: Incidence of Residential Environment Disease among Gujjars**

### CONCLUSION

The present study was conducted on impact of indoor air on health of Gujjars in North Kashmir Himalayas. The study found that in different altitude zones, traditional methods of cooking is done. The duration and frequency of cooking was found very high. Respiratory diseases are also found in all altitude zones. About 87.5 percent households cook food twice a day. The highest percentage of cooking twice a day was found in Zone D (93.9 percent). The average household consumption of fuel wood used was found to be 16.8 kg/day/household. The usage of gas is very less in all zones (11.4 percent). Zone A (14.4 percent) and Zone B (13.6 percent) has highest percentage of households using gas for cooking purpose. Kerosene is not regularly used for cooking purpose because it is not easily available. About 78.6 percent households in Zone E are using bukhari followed by Zone C (43.4 percent). Kangri is mostly used in Zone A (74.4 percent) followed by Zone B (70.7 percent). The total reported percentage of disease incidence was found to be 26.3 percent. The highest incidence of diseases was found in Zone D (43.7 percent) followed by Zone C (38.3 percent). Zone D has the highest incidence of respiratory problems among all altitude zones. The underlying reason of prevalent respiratory disease in North Kashmir Himalayas could be inhalation of bad air quality. Other diseases may be caused due to open defecation, unsanitary and unhygienic condition, unsafe drinking water and dietary habits.

## REFERENCES

1. Ashbolt N. J. (2004). Microbial contamination of drinking water and disease outcomes in developing regions, *Elsevier (Toxicology)*, Vol. **198**, pp. 229–238.
2. Behera, D; Jindal, S. K; Malhotra, H. S.(1991). Ventilatory Function in Non smoking Rural Indian Women Using Different Cooking Fuels. *Thorax*,**46**(5):344-346.
3. Bruce, N. Perez, R. and Albalak, R.(2000).Indoor air pollution in developing countries: a major environmental and public health challenge, *Bulletin of the World Health Organization*, **78** (9).
4. Government of India (2011). *Census of India*, Government of India.
5. Central Pollution Control Board(2014).*Indoor air Pollution*, Monitoring Guidelines. Ministry of Environment ,Forest& Climate Change, Government of India .
6. Emmanuel, E., Pierre, M.G., Perrodin, Y.(2009). “Groundwater contamination by microbiological and chemical substances released from hospital wastewater and health risk assessment for drinking water consumers”. *Environ. Int.* **35**(4):718-726.
7. Ezzati, M and Kammem, D.M.(2002). “The health impacts of exposure to indoor air pollution from solid fuels in developing countries: knowledge, gaps and data needs”, *Resources for the future discussion paper*, **110**(11): 1057-1068.
8. Hussain, M.(1987). *Systematic Geography of Jammu & Kashmir*, Jaipur: Rawat Publication.
9. Koning, H.W, Smith, K. R, and Last, J.M.(1985). “Biomass fuel combustion and Health”, *Bulletin of the World Health Organization*, **63**(1): 11-26.
10. Last, John M.*et al.*(2001).*A Dictionary of Epidemiology* (4th edition). Oxford: Oxford University Press.
11. Olanrewaju, D.O and Akinbanigo, O.B.(2002). “Environmental Health and Target Audience: A Programmatic Panacea for Poverty Alleviation in Nigerian Cities”, *African Journal of Environmental Studies*, **3**(2): 82-89.
12. Park, K.(2005). *Preventive and Social Medicine*, Jabalpur: Banasidas Bhanot Publishers. pp. 661-662.
13. Rahman, A.(1998).*Household Environment and Health*, New Delhi: B R publication, 1998,pp. 3-10.
14. Rather, G.M; Fayaz, S.(2014). “Assessment of Malnutrition among children: A Micro Level Study of Gujjars in Great Kashmir Himalayan Range”, *ICSSR Major Research Project 2011-July 2014*, Unpublished.
15. Rather, G.M, Rouf, D and Bhat, M.S.(2013). “Residential Environment and Related Health Problems in Cold Desert of Ladakh”, *Journal of Himalayan Ecology and Sustainable Development, Deptt. of Environmental Science, University of Kashmir*, Vol.**8**: 138-154.
16. Raza, M, Ahmad, A and Mohammad, A.(1978).*The Valley of Kashmir- A Geographical Interpretation*, Vol.1-The Land. Delhi: Vikas Publishing House, pp. 6-10.

17. Singh, A. L and Jamal, S.(2013). “Indoor Air Quality in Areas of Different Exposure: An experimental study”, *Global Advanced Research Journal of Geography and Regional Planning*, **1**(1): 1-6.
18. Smith, E.B.(1966). Health Hazards of the Slums, *Journal of the National Medical Association*, **59**(2).
19. Singh, A.L., Fazal, S., Azam, F., Rahman, A.(1996). “Income, Environment and Health- A household level study of Aligarh City, India”, *Habitat International*, **20**(1): 77-91.
20. World Health Organization(2011). *Methods for quantifying health impacts of selected housing risks in the WHO European Region*. Braubach, M., Jacobs, D.E., Ormandy, D.(eds.). Geneva: WHO
21. World Health Organization(2010).*WHO Guidelines for Indoor Air quality- Selected pollutants*, Geneva: WHO.

# EFFICACY OF MID DAY MEAL PROGRAMME IN SERVING ITS OBJECTIVES

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## ABSTRACT

*Despite rapid development made by India, over the decades, it has not been very successful in eradicating malnutrition and illiteracy, especially among its children. India's rank has slipped to 100<sup>th</sup> out of 119 countries on the Global Hunger Index, 2017. Mid Day Meal Programme (MDMP) was envisioned with a holistic view to encourage children to attend school regularly, satisfy their hunger and nutritional needs, improve their concentration in classrooms, nurturing their physical and intellectual growth, improve their socialization skills, and reduce gender disparity in education and also for social upliftment of women by creating employment opportunities. In-depth research has been carried out in recent years to debate and understand the vision and goals outlined in the MDMP. The present study, keeping MDMP objectives (as laid down by the MHRD) as a benchmark, strives to evaluate MDMP with specific reference to Mumbai's municipal schools. The study is a descriptive one, based on intensive field work. Though thousands of crores have been poured incessantly into the scheme, over the years by successive well-meaning governments, one cannot overlook the fact that the programme has been dealt fatal body blows in the form of bureaucratic apathy, corrupt practices and shoddy implementation, emboldening a few detractors of the programme to question its continuance. The paper looks into the articulations by the critics and discusses the relevance of the programme in mitigating the crisis of gigantic proportion.*

**Keywords:** Mid Day Meal Programme, Mumbai, schools

## INTRODUCTION

The National Programme of Nutritional Support to Primary Education (NP-NSPE), popularly referred to as the Mid Day Meal Programme (MDMP), was launched on August 15, 1995 by the Government of India as a centrally sponsored scheme with a view to enhance school enrolment, retention, attendance and simultaneously improve the nutrition levels of students in primary classes (I-V). The programme was extended to upper primary classes (VI-VIII) since 2008-09. From September 2006, MDMP was also extended to children in drought-

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affected areas during summer vacations. As on December 2016, MDMP is one of the largest school feeding programme in the world catering to the nutritional needs of around 9.78 crore children in 11.43 lakh schools across India (MHRD, 2017). As per MDMP vision, cooked mid day meals seek to promote universalization of elementary education by providing parents a strong incentive to send children to school, facilitating regular school attendance, improving school retention, enhancing children's learning abilities, fostering social and gender equality, eliminating classroom hunger, inculcating hygiene among school children, helping to impart nutrition education to school children and improve the nutritional status of poor deprived school children (MHRD, 2006).

## **STATEMENT OF THE PROBLEM**

MDMP has been regularly marred by accusations of inefficiency, corruption and substandard efforts. The MDMP without doubt is a critical component of nation building and conceptually offers bountiful benefits in terms of its potential to boost universalisation of elementary education, but those promises are yet to fructify in reality. The present study attempts a third party comprehensive evaluation of MDMP to assess its efficacy against stated objectives.

## **REVIEW OF LITERATURE**

Though all the studies (field studies and econometric studies) that have reviewed, evaluated and highlighted achievements and shortcomings of Mid Day Meal Programme are important contributions to literature, studies that deserve a special mention include empirical research by Dreze & Kingdon (2001), Dreze & Goyal (2004), Pratiche Trust (2005), Afridi (2007), Afridi (2010), Jayaraman *et al.* (2011) for putting forth conclusive evidence about the positive outcomes of MDMP on school enrolment and attendance, especially among girls; Gopaldas (2004) for highlighting the need to address the problem of hidden hunger among school children by supplementing cooked school meals with health interventions in the form of periodic micronutrients supplementation and deworming medication; Thorat & Lee (2005) and Jain & Shah (2005) for red flagging the cases of blatant caste discrimination afflicting MDMP; Garg & Mandal (2013) for analyzing the impact of MDMP in the context of India's social milieu; Afridi (2005), Deodhar (2007) and Shukla (2014) for assessing the nutritional aspects of mid day meals; Afridi (2013) for analyzing the impact of MDMP on cognitive effort in the classroom as opposed to the traditional learning outcomes in terms of reading, writing and math skills; Singh (2008) for using longitudinal data to show how MDMP acts as a security net for younger children suffering from environmental shocks. Other studies have also contributed in terms of highlighting the financial, infrastructural and institutional bottlenecks in the successful delivery of MDMP.

## **OBJECTIVE OF THE STUDY**

The present study attempts to assess the efficacy of MDMP in serving its objectives, with specific reference to Mumbai's municipal schools.

## RESEARCH METHODOLOGY

The study is based on intensive field work (unannounced visits to randomly selected municipal schools and food service units, one from each of the municipal wards) carried out during the academic year 2016-17. Personal observation and detailed semi-structured interview schedules, both based on a five point rating scale with higher points indicating a more favorable response, have been used to gather first hand evidence from the major stakeholders (240 school children, 120 parents and 120 school teachers randomly selected from the sample schools) about the ground realities of the implementation of the Mid Day Meal Programme. Descriptive and inferential statistics (Kolmogorov Smirnov test of normality, parametric one sample t test and non-parametric Wilcoxon signed rank test) has been used for in-depth analysis.

## RESULTS AND DISCUSSION

The study evaluates MDMP on the basis of efficacy of MDMP in realizing its objectives on the basis of feedback from the major stakeholders (School Children, Teachers, Parents, FSPs) through observation and interview schedules, both based on a five point rating scale with higher points indicating a more favorable response. In line with the basic objective of the study, the following hypothesis has been formulated for the study: MDMP is serving its objectives. For statistical testing, Hypothesis 4 is formulated as: Null Hypothesis ( $H_0$ ): MDMP is not serving its objectives and Alternative Hypothesis ( $H_1$ ): MDMP is serving its objectives.

For testing the above hypothesis, data collected during field visits from Schools, FSPs, school children, teachers and parents using observation and interview schedules has been used. As per MDMP vision, cooked mid day meals seek to promote universalization of elementary education by providing parents a strong incentive to send children to school (O1), facilitating regular school attendance (O2), improving school retention (O3), eliminating classroom hunger (O4), improving the nutritional status of poor deprived school children (O5), enhancing children's learning abilities (O6), fostering social and gender equality (O7), imparting nutrition education to school children (O8) and inculcating hygiene among school children (O9). It also envisions to provide employment opportunities for women from marginalized sections of the society (O10).

**Table 1: Efficacy of MDMP in serving its various objectives**

	Item Number				
	School checklist and observation schedule	Children schedule	Parents schedule	Teachers schedule	FSP checklist and observation schedule
MDMP Objectives (O1, O2, O3, O4, O5, O6, O7, O8, O9, O10)					
MDMP has provided parents (from weaker sections of the society) a strong incentive to send their children to school			7		

MDMP is a strong incentive for the child to attend school			9		
MDMP has improved school retention				11	
MDMP has helped to eliminate classroom hunger		6			
MDMP has helped to improve nutritional status of school children			11		
MDMP has helped to improve learning abilities of school children				12	
MDMP has fostered social and gender equality among school children	37				
MDMP has helped to impart nutrition education among school children	34				
MDMP has helped to inculcate hygiene among school children	35				
MDMP has generated employment for women from marginalized sections of the society					22

**Source:** Compiled from Observation and Interview Schedules

**Table 2: Details of variables, scores and Normality Tests for Hypothesis 4**

Variable	Five point rating scale with codes	Null for Normality Test	Normality Test	p value	Result of Normality Test
Q7_O1 Parents schedule	1: Strongly disagree; 2: Disagree; 3: Neither agree nor disagree; 4: Agree; 5: Strongly agree	The distribution of Q7_O1 is normal with mean 4.3833 and S.D. 0.58	One sample Kolmogorov-Smirnov test	0.00	Reject null hypothesis
Q9_O2 Parents schedule	1: Strongly disagree; 2: Disagree; 3: Neither agree nor disagree; 4: Agree; 5: Strongly agree	The distribution of Q9_O2 is normal with mean 4.2750 and S.D. 0.62	One sample Kolmogorov-Smirnov test	0.000	Reject null hypothesis

Q11_O3 Teachers schedule	1: Strongly disagree; 2: Disagree; 3: Neither agree nor disagree; 4: Agree; 5: Strongly agree	The distribution of Q11_O3 is normal with mean 4.52 and S.D. 0.518	One sample Kolmogorov- Smirnov test	0.000	Reject null hypothesis
Q6_O4 Children schedule	1: Strongly disagree; 2: Disagree; 3: Neither agree nor disagree; 4: Agree; 5: Strongly agree	The distribution of Q6_O4 is normal with mean 4.4417 and S.D. 0.61	One sample Kolmogorov- Smirnov test	0.000	Reject null hypothesis
Q11_O5 Parents schedule	1: Strongly disagree; 2: Disagree; 3: Neither agree nor disagree; 4: Agree; 5: Strongly agree	The distribution of Q11_O5 is normal with mean 3.8917 and S.D. 0.683	One sample Kolmogorov- Smirnov test	0.000	Reject null hypothesis
Q12_O6 Teachers schedule	1: Strongly disagree; 2: Disagree; 3: Neither agree nor disagree; 4: Agree; 5: Strongly agree	The distribution of Q12_O6 is normal with mean 4.4917 and S.D. 0.50	One sample Kolmogorov- Smirnov test	0.000	Reject null hypothesis
Q37_O7 School checklist	1: Never; 2: Rarely; 3: Sometimes; 4: Quite Often; 5: Always	The distribution of Q37_O7 is normal with mean 5.00 and S.D. 0.00	The distribution has no variance for this variable. One sample Kolmogorov-Smirnov Test cannot be performed.		
Q34_O8 School checklist	1: Never; 2: Rarely; 3: Sometimes; 4: Quite Often; 5: Always	The distribution of Q34_O8 is normal with mean 3.17 and S.D. 1.523	One sample Kolmogorov- Smirnov test	0.251	Retain null hypothesis
Q35_O9 School checklist	1: Never; 2: Rarely; 3: Sometimes; 4: Quite Often; 5: Always	The distribution of Q35_O9 is normal with mean 2.5000 and S.D. 0.51	One sample Kolmogorov- Smirnov test	0.009	Reject null hypothesis
Q22_O10 FSP checklist	1: Never; 2: Rarely; 3: Sometimes; 4: Quite Often; 5: Always	The distribution of Q22_O10 is normal with mean 2.44 and S.D. 0.86	One sample Kolmogorov- Smirnov test	0.024	Reject null hypothesis

**Source:** Statistical Analysis from Primary Data

Each of the objective taken into consideration for statistical analysis along with the item number from the respective observation and interview schedules is tabulated in Table 1. The details of scores, variables and Normality test for Hypothesis 4 are given in Table 2.

From Table 1, it is observed that the p values for all variables except Q37\_O7 and Q34\_O8 are less than the critical p value of 0.05. Hence the null hypothesis that data is normally distributed is rejected for these variables. Since data is not normally distributed, non-parametric Wilcoxon signed rank test is used for testing significance of these variables with hypothesized median value 3. For variable Q37\_O7, since the distribution has no variance one sample Kolmogorov-Smirnov test cannot be performed.

For variable Q34\_O8, since the p value of normality test is greater than the critical value of 0.05, the null hypothesis that data is normally distributed is retained and so parametric one sample t test is used for testing statistical significance of this variable with hypothesized mean value 3.

**Table 3: Descriptive Statistics for variables Q7\_O1, Q9\_O2, Q11\_O3, Q6\_O4, Q11\_O5, Q12\_O6, Q35\_O9 and Q22\_O10**

	Q7_O1	Q9_O2	Q11_O3	Q6_O4	Q11_O5	Q12_O6	Q35_O9	Q22_O10
N	120	120	120	240	120	120	24	34
Median	4.0000	4.0000	5.0000	5.0000	4.0000	4.0000	2.5000	2.0000

**Source:** Statistical Analysis from Primary Data

Descriptive statistics for all variables except Q37\_O7 and Q34\_O8 is given in Table 3 and Results of non-parametric one sample Wilcoxon signed rank test for testing significance of these variables with hypothesized median value 3 are presented in Table 4.

As reflected in Table 3, since median score values for variables Q7\_O1, Q9\_O2, Q11\_O3, Q6\_O4, Q11\_O5 and Q12\_O6 are greater than 3, it indicates that MDMP is serving these objectives. As median score values for variables Q35\_O9 and Q22\_O10 are less than 3, it indicates that MDMP is not serving these objectives.

From Table 4, it is observed that for variables Q7\_O1, Q9\_O2, Q11\_O3, Q6\_O4, Q11\_O5, Q12\_O6, p value is 0.000 and for variables Q35\_O9 and Q22\_O10, p value is 0.001. Since these values are less than 0.01, null hypothesis is rejected for each of these variables. Hence it may be inferred that median score values for all these variables are significantly different than 3. This indicates that MDMP is serving its objectives for Q7\_O1, Q9\_O2, Q11\_O3, Q6\_O4, Q11\_O5, Q12\_O6 variables and MDMP is not serving its objectives for variables Q35\_O9 and Q22\_O10. For the variable Q37\_O7, the distribution has no variance (S.D. is zero) with mean value 5. Since mean value 5 is greater than 3, it may be inferred that MDMP is serving its objective for variable Q37\_O7.

**Table 4: Hypothesis test summary of non-parametric one sample Wilcoxon signed rank test for variables Q7\_O1, Q9\_O2, Q11\_O3, Q6\_O4, Q11\_O5, Q12\_O6, Q35\_O9 and Q22\_O10 servicing of programme objectives**

Null Hypothesis	p value	Decision
The median of Q7_O1 equals to 3.00	0.00	Reject null hypothesis
The median of Q9_O2 equals to 3.00	0.00	Reject null hypothesis
The median of Q11_O3 equals to 3.00	0.00	Reject null hypothesis
The median of Q6_O4 equals to 3.00	0.00	Reject null hypothesis
The median of Q11_O5 equals to 3.00	0.00	Reject null hypothesis
The median of Q12_O6 equals to 3.00	0.00	Reject null hypothesis
The median of Q35_O9 equals to 3.00	0.001	Reject null hypothesis
The median of Q22_O10 equals to 3.00	0.001	Reject null hypothesis

**Source:** Statistical Analysis from Primary Data

Descriptive Statistics for variable Q34\_O8 is given in Table 5 and results of parametric one sample t test for testing significance of this variable with hypothesized mean value 3 are presented in Table 6. Mean score value for Q34\_O8 is 3.17. Since 3.17 is greater than 3, it indicates that MDMP is serving its objective for this variable. Results of t test for Q34\_O8 indicate that the p value is 0.597 and so null is retained and it is inferred that that mean score value for variable Q34\_O8 is not significantly greater than hypothesized value 3 and MDMP is not serving its objective for variable Q34\_O8.

**Table 5: Descriptive statistics for variable Q34\_O8**

	N	Mean	S.D.	Std. Error Mean
Q34_O8	24	3.17	1.523	.311

**Source:** Statistical Analysis from Primary Data

**Table 6: One sample t test of mean vs hypothesized score 3 for variable Q34\_O8 regarding MDMP serving its objectives**

Variable	Test Value = 3		
	t	Degrees of freedom (df)	Sig. (2-tailed) p value
Q34_O8	0.536	23	0.597

**Source:** Statistical Analysis from Primary Data

Overall summary with respect to the hypothesis tested is presented in Table 7. On the positive side, MDMP has provided parents a strong incentive to send their children to schools. For school children, MDMP is a strong incentive to attend school; it facilitates elimination of classroom hunger; improves school retention, learning abilities and nutritional status and fosters social equality. On the negative side, MDMP has failed to inculcate hygiene and impart nutrition education among school children. As far as the role of MDMP in generating employment opportunities for women from the marginalised sections of the society is concerned, it has failed on this front also.

**Table 7: Summary of Hypothesis Tested under the study**

<b>MDMP Objective</b>	<b>Variable</b>	<b>MDMP serving its objective</b>
MDMP has provided parents (from weaker sections of the society) a strong incentive to send their children to school	Q7_O1 Parents schedule	yes
MDMP is a strong incentive for the child to attend school	Q9_O2 Parents schedule	yes
MDMP has improved school retention	Q11_O3 Teachers schedule	yes
MDMP has helped to eliminate classroom hunger	Q6_O4 Children schedule	yes
MDMP has helped to improve nutritional status of school children	Q11_O5 Parents schedule	yes
MDMP has helped to improve learning abilities of school children	Q12_O6 Teachers schedule	yes
MDMP has fostered social and gender equality among school children	Q37_O7 School checklist	yes
MDMP has helped to impart nutrition education among school children	Q34_O8 School checklist	no
MDMP has helped to inculcate hygiene among school children	Q35_O9 School checklist	no
MDMP has generated employment for women from marginalized sections of the society	Q22_O10 FSP checklist	no

**Source:** Statistical Analysis from Primary Data

## CONCLUSION

Though thousands of crores have been poured incessantly into the MDMP, over the years by successive well-meaning governments, one cannot overlook the fact that the programme has been dealt fatal body blows in the form of bureaucratic apathy, corrupt practices and

shoddy implementation, emboldening a few detractors of the programme to question its continuance. While it cannot be denied in entirety that such apprehensions do need to be allayed by revamping the machinery to streamline the delivery process, casting aspersions on the very existence of such a socially relevant mechanism is uncalled for. MDMP was not conceived and cannot be a panacea to all hunger related issues in India, and no doubt, maladies like corruption and poor execution and insipid monitoring continue to plague MDMP, one cannot overlook the fact that it has delivered to a great extent on school participation, especially among girls and marginalized sections of the society, and fostered gender and social equality in the context of India's rigid social milieu. Above all, its mission to reduce classroom hunger and provide nutrition to school going children is above reproach. The MDMP is a step forward in welfare schemes for children, and with a little improvement, it can truly help better the nation's future.

## REFERENCES

1. Afridi, F. (2005). Mid day meals in two states: Comparing the financial and institutional organisation of the programme. *Economic & Political Weekly*, **40**(15): 1528-1534.
2. Afridi, F. (2007). *The impact of school meals on school participation: Evidence from Rural India*. Retrieved on February 15, 2017, from [www.cid.harvard.edu/neudc07/docs/neudc07\\_s6\\_p01\\_afridi.pdf](http://www.cid.harvard.edu/neudc07/docs/neudc07_s6_p01_afridi.pdf)
3. Afridi, F., Boruah, G., & Somanathan, R. (2010). *School meals and student participation in urban India*. Retrieved February 25, 2017, from [http://www.isid.ac.in/~pu/conference/dec\\_10\\_conf/Papers/FarzanaAfridi.pdf](http://www.isid.ac.in/~pu/conference/dec_10_conf/Papers/FarzanaAfridi.pdf)
4. Afridi, F., Boruah, G., & Somanathan, R. (2013). *School meals and classroom effort: Evidence from India*. International Growth Centre. Retrieved February 25, 2017, from <http://www.theigc.org/wp-content/uploads/2014/09/Afridi-Et-Al-2013-Working-Paper1.pdf>
5. Deodhar, S., Mahandiratta, S., Ramani, K., Mavalankar, D., Ghosh, S., & Braganza, V. (2007). *Mid Day Meal Scheme: Understanding critical issues with reference to Ahmedabad city*. IIM, Ahmedabad. Retrieved February 25, 2017, from [http://www.iimahd.ernet.in/publications/data/2007-03-03\\_SatishDeodhar.pdf](http://www.iimahd.ernet.in/publications/data/2007-03-03_SatishDeodhar.pdf)
6. Dreze, J., & Goyal, A. (2003). The future of mid day meals. *Economic and Political Weekly*, **38**(44): 4673-82.
7. Dreze, J., & Kingdon, G. (2001). School Participation in Rural India. *Review of Development Economics*, **5**(1): 1-24.
8. Garg, M., & Mandal, K. (2013). Mid-Day Meal for the poor, privatised education for the non-poor. *Economic & Political Weekly*, **48**(30): 155-163.
9. Gopaldas, T. (2004). *Towards effective school health: The FRESH initiative in Gujarat. Mid-Day Meals in Primary Schools Booklet*. Retrieved February 25, 2017, from <http://www.righttofoodindia.org/data/fresh.pdf>
10. Jain, J., & Shah, M. (2005). Antyodaya Anna Yojana and Mid-Day Meals in MP. *Economic and Political Weekly*, **40**(48): 5076-88.

11. Jayaraman, R., Simroth, D., & Vericourt, F. (2011). *The impact of school lunches on primary school enrollment: Evidence from India's Mid Day Meal Scheme*. CESIFO Working Paper No. 3679. Retrieved February 25, 2017, from [https://static1.squarespace.com/static/54e9da8fe4b0e3df8c129b59/t/54edf220e4b021ba81edeeb6/1424880160715/13016Jayaraman\\_paper.pdf](https://static1.squarespace.com/static/54e9da8fe4b0e3df8c129b59/t/54edf220e4b021ba81edeeb6/1424880160715/13016Jayaraman_paper.pdf)
12. Kulkarni, M. (2003). On Mid-Day Meals. *Economic & Political Weekly*, **38**(49): 5216.
13. Ministry of Human Resource Development (2006). *MDM Guidelines*. Retrieved February 25, 2017 from [http://mdm.nic.in/Files/Guidelines/10.FINAL\\_Guidelines\\_MDM\\_19\\_sept.pdf](http://mdm.nic.in/Files/Guidelines/10.FINAL_Guidelines_MDM_19_sept.pdf)
14. Ministry of Human Resource Development. (2017). *About the Mid Day Meal Scheme*. Retrieved February 25, 2017, from [http://mdm.nic.in/About the Mid Day Meal Scheme.pdf](http://mdm.nic.in/About%20the%20Mid%20Day%20Meal%20Scheme.pdf)
15. Pratichi Research Team. (2005). *Cooked Mid-Day Meal Programme in West Bengal: A study in Birbhum district*. Pratichi (India) Trust. Retrieved February 25, 2017, from [http://pratichi.org/sites/default/files/MDM\\_Birbhum.pdf](http://pratichi.org/sites/default/files/MDM_Birbhum.pdf)
16. Shukla, S. (2014). Mid Day Meal: Nutrition on paper, poor food on the plate. *Economic & Political Weekly*, **49**(7): 51-57.
17. Singh, S. (2004). Future of Mid Day Meals. *Economic and Political Weekly*, **39**(9): 998-1000.
18. Singh, A. (2008). Do school meals work? Treatment evaluation of the Mid Day Meal Scheme in India. *Young Lives Student Paper*. Retrieved February, 25, 2017, from [https://assets.publishing.service.gov.uk/media/57a08b8be5274a27b2000be5/YL\\_Singh\\_Nov08.pdf](https://assets.publishing.service.gov.uk/media/57a08b8be5274a27b2000be5/YL_Singh_Nov08.pdf)
19. Thorat, S. & Lee, J. (2005). Caste discrimination and food security programmes. *Economic and Political Weekly*, **40**(39): 4198-4201. Retrieved March 30, 2017, from [http://www.epw.in.iproxy.inflibnet.ac.in:2048/system/files/pdf/2014\\_49/42/Nutrition\\_](http://www.epw.in.iproxy.inflibnet.ac.in:2048/system/files/pdf/2014_49/42/Nutrition_)

# CUSTOMER SATISFACTION OF SERVICES WITH AXIS BANK

*Dr. Upasana Srivastava\**  
*Kokila Gupta\*\**

## ABSTRACT

*The banking in India is facing challenges concerning both customer base and performance. Major changes took place in the functioning of banks in India only after liberalization, privatisation and globalisation (LPG). Private Banks in India have their history dating back to 1921. There are various services provided by private banks in India like account, loans, insurances etc. Every bank is keen to provide services with the best benefits and at a low interest rate because of high level of competition among banks. Service quality, customer's satisfaction, customer's retention, customer's loyalty and happiness are the major challenges gripping the banking sector. The success or failure of business depends upon banks relationship with customers. Therefore, it becomes important to study the customer's satisfaction prevailing in private banks. In this paper, the customer's satisfaction with the performance of Axis bank has been analysed on the basis of five parameters i.e. Reliability of Financial Product, Financial Benefit, Service Responsibility, Problem Handling of Customers and Time Management for customers.*

**Keywords:** Customer loyalty, customer satisfaction, happiness.

## INTRODUCTION

UTI Bank opened its registered office in Ahmedabad and corporate office in Mumbai in December 1993. The first branch was inaugurated on 2 April 1994 in Ahmedabad by Dr. Manmohan Singh, the then Finance Minister of India. UTI Bank began its operations in 1993, after the Government of India allowed new private banks to be established. The Bank was promoted in 1993 jointly by the Administrator of the Unit Trust of India (UTI-I), Life Insurance Corporation of India (LIC), General Insurance Corporation, National Insurance Company, The New India Assurance Company, The Oriental Insurance Corporation and United India Insurance Company. In 2001 UTI Bank agreed to merge with and amalgamate with Global Trust Bank, but the Reserve Bank of India (RBI) withheld approval and nothing came of this.

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In 2004, the RBI put Global Trust into moratorium and supervised its merger into Oriental Bank of Commerce.

The UTI Bank became the Axis Bank in 2003. Axis Bank became the first Indian bank to launch the Travel Currency Card. In 2005, Axis Bank got listed on London Stock Exchange. Axis Bank opened its first overseas branch in 2006 in Singapore. That same year it opened a representative office in Shanghai, China. Axis Bank opened a branch in the Dubai International Financial Centre in 2007. That same year it began branch operations in Hong Kong. In 2008, it opened a representative office in Dubai.

In 2011, Axis Bank opened a representative offices and commercial branch in Colombo and as a Licensed Commercial Bank in Abu Dhabi. In 2011, Axis bank inaugurated Axis House, its new corporate office in Worli, Mumbai. In 2013, Axis Bank's subsidiary, Axis Bank UK commenced banking operations. Axis Bank UK has a branch in London at St.Paul's. In 2015, Axis Bank opened its representative office in Dhaka. Axis Bank Ltd is the third largest of the private-sector banks in India offering a comprehensive suite of financial products. The bank has its head office in Mumbai and registered office in Ahmedabad. Axis Bank is one of the fastest growing banks in private sector. The Bank operates in four segments, namely treasury, retail banking, corporate/ wholesale banking and other banking business. The treasury operations include investments in sovereign and corporate debt, equity and mutual funds, trading operations, derivative trading and foreign exchange operations on the account, both for customers and central funding. Retail banking includes lending to individuals/ small businesses subject to orientation, product and granularity criterion. It also includes liability products, card services, internet banking, automated teller machines (ATM) services, depository financial advisory services, and Non Resident Indian (NRI) services.

## **CUSTOMER SATISFACTION**

Customer satisfaction is a term used in banking. Customer satisfaction is a measure of how products and services are supplied by a bank. Customer satisfaction is defined as the number of customers, or percentage of total customers that are fully satisfied and remain loyal. In banking it is seen as a key performance indicator within business of banking and is often part of a balanced scorecard. In competitive market place banking businesses compete for customers. Customer satisfaction is seen as a key differentiator and increasingly has become a key element of banking business strategy.

In banks, customer satisfaction ratings can have powerful effects. They focus employees on the importance of fulfilling customers' expectations. Furthermore, when these ratings dip, they warn of problems that can affect sales and profitability. These metrics quantify an important dynamic. When a bank has loyal customers, it gains positive word-of-mouth marketing, which is both free and highly effective. Banks need reliable and representative measures of satisfaction to effectively manage customer satisfaction. In researching satisfaction, banks generally ask customers whether their product or service has met or exceeded expectations. Thus, expectations are a key factor behind satisfaction. When customers have high expectations and the reality falls short, they will be disappointed and will likely rate their experience as less

than satisfying.

The Marketing Accountability Standards Board (MASB) endorses the definitions, purposes, and constructs of classes of measures that appear in marketing metrics as part of its ongoing common language in marketing project. In a survey of nearly 200 senior marketing managers, 71 % responded that they found a customer satisfaction metric very useful in managing and monitoring their businesses.

## REVIEW LITERATURE

Mohammed Sadique Khan and Siba Sankar Mahapatra made a study titled, *Service Quality Evaluation in Internet Banking :An Empirical Study in India*(2009). This study was aimed at evaluating the service quality of internet banking ( i-Banking) services in India from customer's perspective. A structured questionnaire containing 44 quality items was administered to various target groups. Seven quality dimensions, viz. reliability, accessibility, user friendliness, privacy/security, efficiency, responsiveness and fulfilment, were identified based on principal component factor analysis. Demographic analysis of data reveals that gender is hardly a bias for use and evaluation of service quality of i-Banking in most of the cases across various categories of customers. A valid mathematical model was proposed to assess the overall service quality using regression analysis. The results showed that customers are satisfied with quality of service on four dimensions such as reliability, accessibility, privacy/security, responsiveness and fulfilment, but least satisfied with the 'user-friendliness' dimension. The empirical findings not only prioritise different parameters but also provide guidelines to bankers to focus on the parameters on which they need to improve.

Pankaj Sinha, Varundeep Singh Taneja and Vineet Gothi examined *Evaluation of Riskiness of Indian Banks and Probability of Book Value Insolvency*(2010). Recently, a lot of questions were raised about the financial health of commercial banks in India. This paper analyzes the Indian banks' risk-factor and the probability of book value insolvency under the framework developed by Hannan and Hanweck (1988). A risk index, known as Z score, for Global Trust Bank that became insolvent in 2004 suggests that the framework developed by Hannan and Hanweck (1988) is also relevant in the Indian context. For a random sample of 15 Indian Banks (public & private sector), the riskiness/probability of book value insolvency over the years was evaluated and also a relative comparison between public and private sector banks in India was carried out. Results obtained in the study show that the probability of book value insolvency of Indian Banks has reduced over years and the probability of book value insolvency is lower in case of public sector banks in comparison to private sector banks.

Puja Khatri and Yukti Ahuja examined *Comparative Study of Customer Satisfaction in Public Sector and Private Sector Banks* (2010). With the advent of liberalization policy and RBI's easy norms, several private and foreign banks have entered in Indian banking sector which has given birth to cut throat competition amongst banks for acquiring large customer base and market share. Banks have to deal with many customers and render various types of services to their customers and if the customers are not satisfied with the services provided by the banks then they would defect which would impact economy as a whole since banking

system plays an important role in the economy of a country. Also it is very costly and difficult to recover a dissatisfied customer. Since the competition has grown manifold in the recent times it has become a Herculean task for organizations to build loyalty, the reason being that the customer of today is spoilt for choice. It has become imperative for both public and private sector banks to perform to the best of their abilities to retain its customer-base by catering to their explicit as well as implicit needs. Many a times it happens that the banks fail to satisfy their customer which can cause huge losses for banks and therefore the need of this study arises. The purpose of this study is to compare the public sector banks and private sector banks in terms of customer satisfaction and to study the various variables of service quality using SERVQUAL model. The work has been carried out with the objective of understanding the reasons of customer dissatisfaction and what are the opportunity areas wherein these banks need to focus and strengthen their Customer Relationship Management practices. The research work uses both the sources of information, i.e. Primary and Secondary sources, and thereafter SERVQUAL model has been used to identify the discrepancies in the service delivery system.

Kajal Chaudhary and Monika Sharma examined *Performance of Indian Public Sector Banks and Private Sector Banks: A Comparative Study* (2011). The economic reforms in India started in early nineties, but their outcome is visible only now. Major changes took place in the functioning of Banks in India only after liberalization, globalisation and privatisation. It has become mandatory to study and to make a comparative analysis of services of Public sector Banks and Private Sector banks. Increased competition, new information technologies and thereby declining processing costs, the erosion of product and geographic boundaries, and less restrictive governmental regulations have all played a major role for Public Sector Banks in India to forcefully compete with private and foreign banks and to reveal how efficiently Public and Private sector banks have been managing NPA.

Uma Sankar and Bibuti Bhusan Mishra examined in the study on *Employee Evaluations of Customer Satisfaction* (2010), how the success or failure of a business depends on what of customer relationship it practices. In the modern world of competition, growing consumerism, and information explosion, the one single element that stands out as the factor of success is the customer satisfaction. As electronic banking becomes more prevalent, now-a-days customers are evaluating banks based more on their “high-touch” factors than on their “high-tech” factors in most of the developing economies like India

## **OBJECTIVES OF STUDY**

1. To chart out the development and growth of Axis bank in India.
2. To examine and evaluate the customer satisfaction in Axis bank on the basis of various parameters taken in the study.

## **RESEARCH METHODOLOGY**

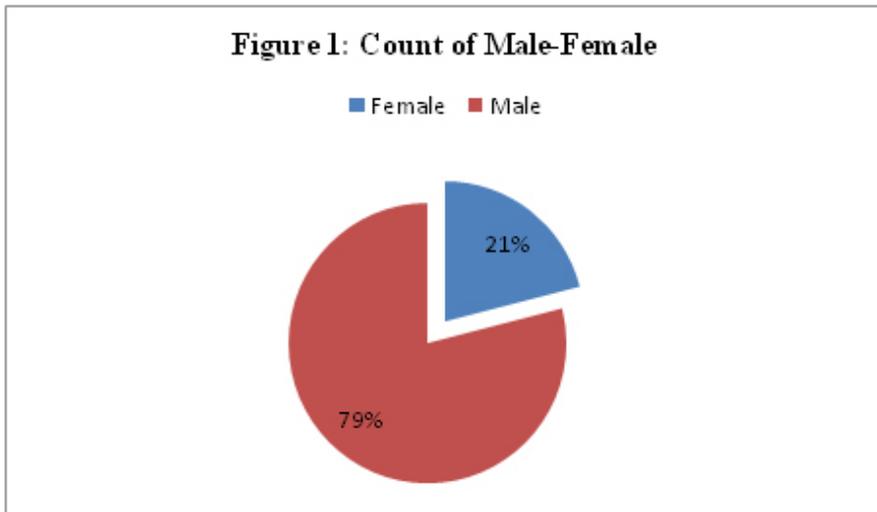
The study is entirely based on primary data. The primary data has been collected through a predesigned questionnaire. The sample size of 100 customers of the Axis bank has been taken

to examine the customer’s satisfaction. Likert scale questions have been used to analyse the satisfaction level of customers.

### DATA ANALYSIS

The analysis of data has been done on the basis of the data collected through questionnaire, filled by the customers of Axis bank.

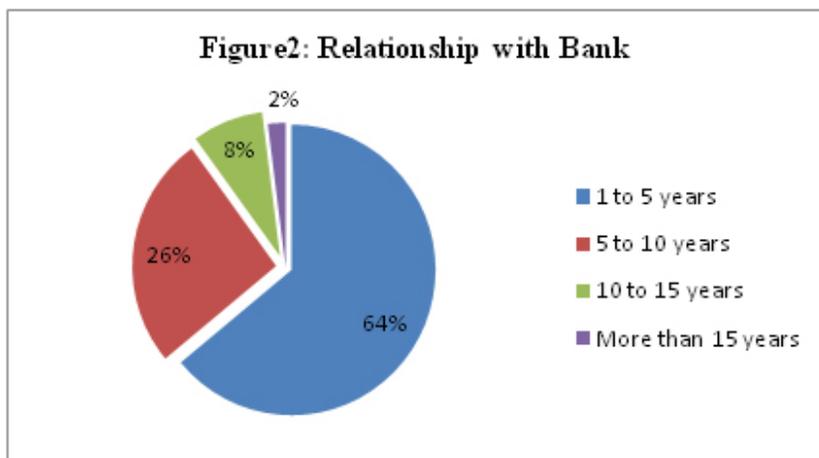
#### A) Gender Composition



#### Data Analysis and Interpretation

In this study, there were 21% females and 79% males from the total sample size of 100 consumers surveyed.

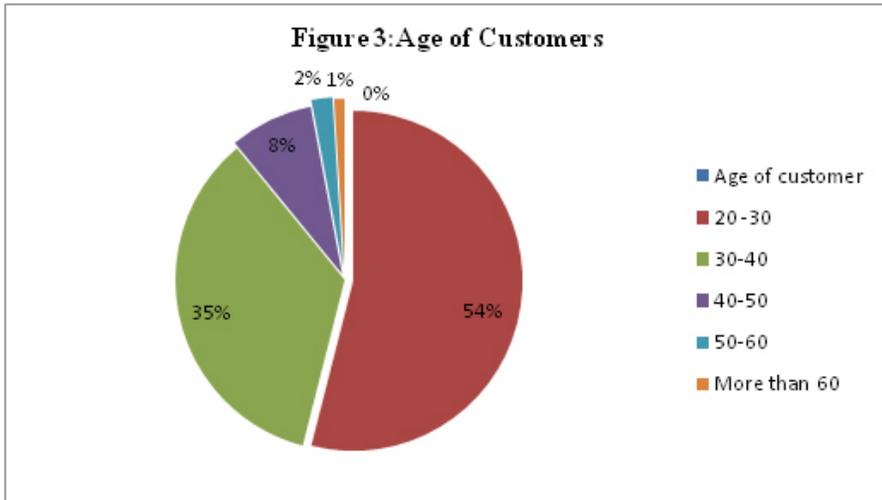
#### B) Relationship with the Bank



**Data Analysis and Interpretation:**

On the basis of customers' relation with the bank, it has been observed that 64% of the customers had a relation with the bank for 1 to 5 yr, 26% for 5 to 10 year, 8% for 10 to 15 year and 2% for more than 15years.

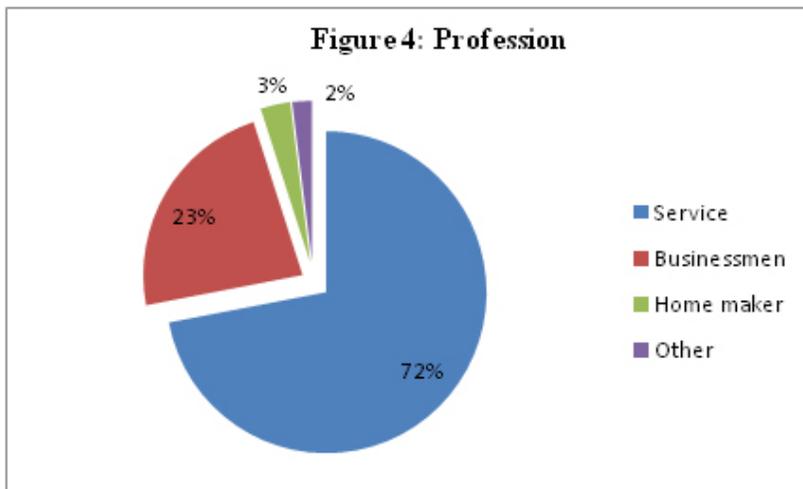
**C) Age Composition**



**Data Analysis and Interpretation:**

Customers having the age between 20-30 constituted 54%, those between 30-40 years were 35%, between 40-50 years were 8%, between 50-60 years were 2%, and those with more than 60 years were 1% .

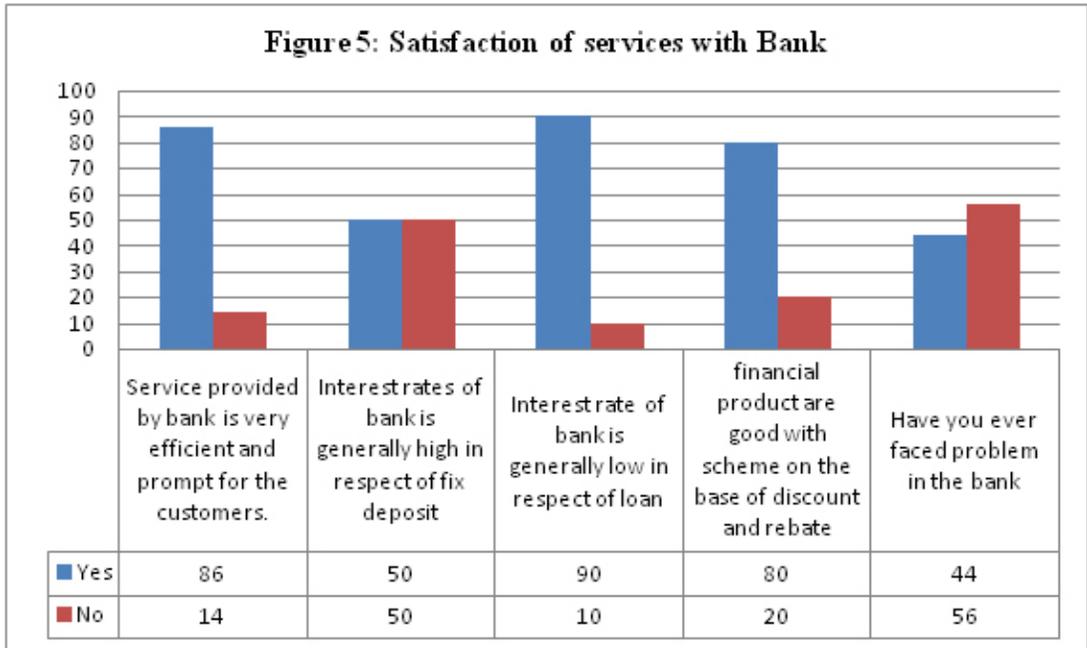
**D) Occupation Structure of Consumers**



**Data Analysis and Interpretation:**

According to the data collected, 72% of the consumers were in service, 23% in business, 3% were home maker, and 2% were in other occupation.

**E) Customers Satisfaction of Services with Banks**



**Data Analysis and Interpretation:**

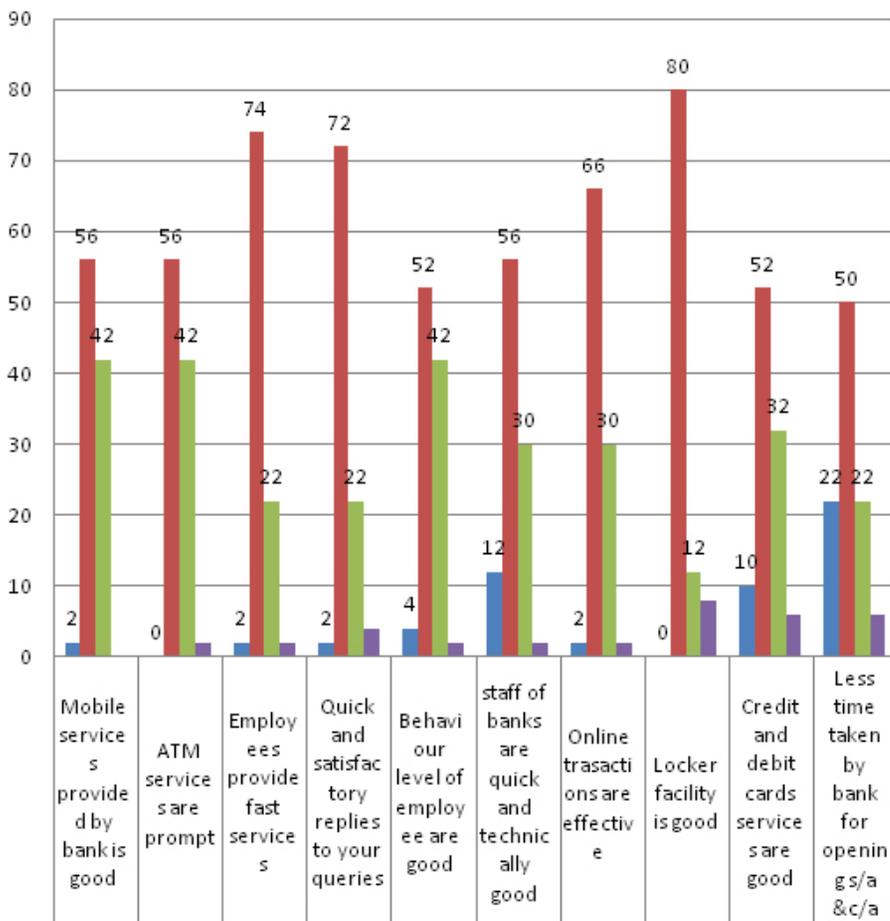
In the study, the satisfaction level of customers have been measured to understand the requirement of the customers obtained from the various facilities offered by bank, inter alia, (i) services provided by the bank is very efficient and prompt for the customers, (ii) interest rates of bank is generally high in respect of fixed deposit, (iii) interest rate of bank is generally low in respect of loan, (iv) financial product are good with scheme on the base of discount and rebate, and (v) have you ever faced problem in the bank. It has been seen that 86% of the customers said Yes and 14% No for the (i). 50% of the customers said Yes and 50% No for (ii), 90% of the customers said Yes and 10% No for (iii), 80% of the customers said Yes and 20% No for (iv), 44% of the customers said Yes and 56% N for (v).

**F) Customers Satisfaction**

**Data Analysis and Interpretation:**

On the basis of customer satisfaction, it has been observed that 56% are satisfied, 42% very satisfied, 2% dissatisfied for *mobile services provided by the bank is good*; 56% are satisfied, 42% very satisfied, 0% dissatisfied and 2% not applicable for *promptness of ATM services of bank*; 74% are satisfied, 22% very satisfied, 2% dissatisfied and 2% not applicable for *employees provide fast services in the bank*; 72% are satisfied, 22% very satisfied, 2% dissatisfied and

Figure 6: Customer's Satisfaction



Dissatisfied	2	0	2	2	4	12	2	0	10	22
Satisfied	56	56	74	72	52	56	66	80	52	50
Very Satisfied	42	42	22	22	42	30	30	12	32	22
Not Applicable	0	2	2	4	2	2	2	8	6	6

4% not applicable for quick and satisfactory replies of queries; 52% are satisfied, 42% very satisfied, 4% dissatisfied, and 2% not applicable for behaviour level of employees are good; 56% are satisfied, 30% very satisfied, 12% dissatisfied, and 2% not applicable for staff of bank are quick and technically good; 66% are satisfied, 30% very satisfied, 2% dissatisfied, and 2% not applicable for effectiveness of online transactions of bank; 80% are satisfied, 12% very satisfied, 0% dissatisfied, and 8% not applicable for locker facilities of bank; 52% are satisfied, 32% very satisfied, 10% dissatisfied, and 6% not applicable for credit and debit card services of bank; 50% are satisfied, 22% very satisfied, 22% dissatisfied, and 6% not applicable for lower time taken by the bank for opening of bank accounts.

## FINDINGS

In this study, there were 21% females and 79% males. It has been seen that only 2% of the customers surveyed had a relation with the bank for more than 15 years. Maximum number of customers (67%) had a relation between 1 to 5 years with the bank. Majority customers were between the age of 20-30 years (54%). Customers with services class as profession were in majority (72%), followed by business class (23%). In the study, the satisfaction level of customers was measured to understand the requirement of the customers for the various facilities offered by bank.

## CONCLUSION

Customers were found to be satisfied on count of the services like mobile, ATMS services, car loan, quick reply queries, fast services, home loan, young staff, IT services. Few customers i.e. only 26% took loan from bank for various purposes like home, car, multi-product. This shows that banks need to improve their marketing strategies to attract customers for seeking loans. The other reason could be the high interest rate offered by the bank. It has been seen that maximum customers are satisfied with the services provided by the bank, but still as we can see, there are customers, who are dissatisfied by the services and financial product provided by the bank. This shows that there is a scope for improvement in the service provided by the bank to customers. They should focus on 99% accuracy rate to improve the service of the banks. In this competitive world where there are challenges, the Bank would otherwise shed valuable customers to other banks.

## REFERENCES

1. Chaudhary, Kajal and Sharma, Monika (2011). "Performance of Indian Public Sector Banks and Private Sector Banks: A Comparative Study", *International Journal of Innovation, Management and Technology*, Vol. 2(3): 249-256.
2. Khan, Mohammed Sadique and Mahapatra, Siba Sankar (2009). "Service Quality Evaluation in Internet Banking: An Empirical Study in India", *Int. J. Indian Culture and Business Management*, Vol. 2(1): 30-46.
3. Khatri ,Puja & Ahuja, Yukti (2010). "Comparative Study of Customer Satisfaction in Indian Public Sector and Private Sector Banks", *I.J.E.M.S.*, Vol. 1(1): 42-51.
4. Mishra, Uma Sankar and Sahoo,Kalyan Kumar(2010). "Service Quality Assessment in Banking Industry of India: A Comparative Study Between Public and Private Sectors", *European Journal of Social Sciences* , Vol. 16( 4).
5. Parthak, Bhararti V (2008). *The Indian Financial System (Markets, Institution, and Services)*, Noida,UP: Dorling Kindersley ( Indian ) Pvt. Ltd ,pp.474-554.
6. Pattanayak, Durgesh; Maddulety Dr. K.( 2011). Effect of TQM on Consumer Satisfaction in Indian Banking Industry, *European Journal of Business and Management*, Vol.3 (2).

7. Sinha, Pankaj, Taneja, Varundeep Singh and Gothi, Vineet (2009). "Evaluation of Riskiness of Indian Banks and Probability of Book Value Insolvency", *International Research Journal of Finance and Economics*, Issue **38**:7-12.
8. Sathye, Milind (2005). "Privatization, Performance, and Efficiency: A Study of Indian Banks", *Vikalpa*, Vol.**30**(1):7-16.

## THE THEME OF VIOLENCE IN GOLDING: A STUDY OF HIS SELECT NOVELS

Kanak Raj Chandna\*

### ABSTRACT

*Violence can be explained as an expression of martial tendency of man to show his prowess and to subdue the weaker sections in the society. On account of it being a base instinct in man's psyche, it is linked with the primitive, barbaric self of man. This inherent barbaric self of man is always in search of pride and hate. Golding's novels exhibit the increasing tendency of people to resort to violence in any form. Golding seems to suggest that it is impossible to eradicate violence from the society. But by reposing our faith in the spiritual life, we can scale down the level of violence. The paper explores the theme of sublimation of violence through spiritual urge in Golding's works.*

**Keywords:** *Free Fall, Lord of the Flies, New People, Pincher Martin, spiritual values.*

### INTRODUCTION

Willaim Golding(1911-1993) was a famous British playwright and novelist. He won Booker Prize(1980) for his novel, *Rites of Passage* and the Nobel prize for Literature(1983). Some of his famous novels are *Lord of the Flies*(1954), *The Inheritors*(1955), *Pincher Martin*(1956). His trilogy, *To The Ends Of The Earth* earned accolades from various quarters. Known as a pessimist, Golding trusted in human ingenuity to express through words and to communicate with a common sense . Golding expects us to go back and search the basic truths that have been obscured by material progress. Golding underscores the need to reach out to the universe and through the universe to God. But, what is the state of contemporary human predicament?

“Minors forced into cars, raped. Four youths drive away with 18-year-old. 15-year-old Chennai schoolboy stabs his teacher to death. Battered and abandoned, 2-year-old admitted at the AIIMS Trauma Centre”. Such newspaper headings certainly do not make for healthy reading. On the contrary, they make us immensely sad as we reflect on the human situation and share Wordsworth's sentiment in the poem, *Written in Early Spring*:

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*And much it grieved my heart to think  
What man has made of man.*

All the outrages committed on man and his society is symptomatic of the violence that has permeated into society. Every serious attempt on the part of the government and institutions, both public and private, to weed out violence leads us nowhere and we are once again back to square one. This is because violence operated in the primordial past, it gained fresh momentum in the Middle Ages and finally it broke all records in the modern age. When we take into account the enormity of violence in the present age and think how rapidly it has changed its proportions from an endemic one to an epidemic one, we try to discover the similarities, if any, between the violence operating in the cosmos and that operating on the earth. We cannot sever the element of violence from the cycle of creation and destruction. Our thought about the very origin of the universe links us with violence in the cosmos. The violent birth of the earth has its roots in the Big Bang theory. Since man is a biological, instinctual being, it is well-nigh impossible to root out violence from the society.

Golding's primary concern as a novelist is to show the manifestation of violence in the society. Like Conrad, he knows that evil is all pervasive. Like Conrad, he believes in the metaphysics of evil and this evil is instrumental in bringing about all kinds of violence in the society. He believes with the psychologist Jung that evil does not originate from any ontological duality but it is certainly a debilitating psychic force.

The novelist Golding has seen life so closely, thoroughly and intimately that he is forever aware of the dog barking or lurking beneath our skin. Even Nossen while critiquing on the beast-man theme in Golding's novels is accurate in his observation of Golding's world, where he discovers through Simon and Jack, through Lok and Fa that the beast-man is neither all good nor all bad; for it is a paradox of human existence that good and evil are so tightly entangled in man's experience that it is impossible to separate them or at times even to recognize them clearly (Even-Nossen 68-69).

*Lord of the Flies* depicts a group of British schoolboys who, by sheer accident make an abrupt landing on an island, sometime after the Second World War. In the first few days, they create an impression of being a homogeneous group. But with the passage of time, the signs of resentment begin to make their ugly presence. A split is caused among the boys and the reasons can be ascribed to: the failure of the boys to raise a signal fire, and the jealousy of Jack when Ralph is selected leader of the group. The unified group splits into two: Jack and his band of hunters form one faction, whereas Piggy, Ralph, Sam, Eric and the Littleuns form another faction. The two factions are always at loggerheads with each other. The natural savagery of Jack aided by his instinct for killing makes him an evil incarnate. He has always suppressed the killer instinct in him, but he hits upon a plan to give that instinct hands and feet. Golding states how 'Jack hid, liberated from shame and self-consciousness'; he further hinted at the animality concealed in his laughter thus: *his laughter became a bloodthirsty snarling* (*Lord of the Flies* 69).

Jack refrains from killing the piglet in the heart of the jungle and the boys, more than anybody else, can read into Jack's psychological motivations clearly: *They knew very well*

why he hadn't: because of the enormity of the knife descending and cutting into living flesh; because of the unbearable blood. (*Lord of the Flies* 34). Jack's penchant for violent deeds had been curbed by the restraints of civilization in the English society. But in the society of the jungle, his latent motivation for violence manifests itself not merely in the issue related to the piglet but also in his dealings with Piggy. One recalls in this connection his attack on Piggy which results in the breaking of his spectacles. The smashing of Piggy's spectacles sets in a chain of small clashes among the boys. Jack's senseless behavior has a detrimental effect on the psyche of the boys and that engenders negative emotions: frustration, humiliation, anger and pride. Primitive people have always made a jamboree over their killing of wild animals, but the amazing thing is that these British boys who had all the trappings of culture and British civilization on them, quickly display their primitive instincts when the pig is slaughtered ...*Knowledge that they had outwitted a living thing, imposed their will upon it, taken its life like a long satisfying drink* (*Lord of the Flies* 76). So long the boys have drained out their energy in hunting a pig, it remains hidden. But the latent evil in them now urges them to go for a man-hunting. The boys become splenetic and rash and vent their ire on Simon, who has all the making of a mystic and is like a Christ-figure in his group. The bloodthirsty boys shout at the top of their voices, *Kill the beast! Cut his throat! Spill his blood!* (*Lord of the Flies* 168). The list of their violent acts is long and unending: Ralph pelts stones at Henry; pulls down the sandcastle of Percival and in the ritual of orgy Jack's followers kill Simon and Piggy. Jack would have liquidated Ralph had the naval officer not arrived in time.

Golding's statement of fact in *The Inheritors* seems to be that progress in the society cannot be possible without destruction, death and violence. Here, society is divided into two groups: the new people and the Neanderthals, respectively. The new people are mighty afraid of the Neanderthals, whom they look down as grotesque animals. Golding's description almost imparts a mythopoeic quality to them: *It was a strange creature, smallish, and bowed. The legs and thighs were bent and there was a whole thatch of curls on the outside of the legs and arms.... There was no bridge to the nose..... The shadows lay most darkly in the caverns above its cheeks and the eyes were invisible in them.* (*The Inheritors* 218-219). It is the fear psychosis of the new group that manifests itself in their hatred and lack of trust which they show against the Neanderthals.

The personal lives of the new people are violent and traumatic. Fa has every reason to believe that death and evil walk hand in hand with the new people. She observes in a retrospective mood that the death of Mal was caused by the removal of log. His death could also be ascribed to his standing on the cliff. *They killed Nil and threw her into the water. And the old woman. They have taken Liku and the new one* (*The Inheritors* 114). Lok is flabbergasted with their violent rituals of the hacking of Pine tree's finger. By drinking the new honey that smacks of dead things, they become morally depraved and violent.

Golding explores the adulterous relationship of people and the way it degenerates into sheer brutality. The tribal artist, Tuami, has an adulterous relationship with the wife of Marlano and she is none other than Vivani. Golding likens them to ravenous wolves and boisterous horses in their mating:

*Their fierce and wolf like battle ended. They had fought it seemed, against each other, consumed each other, rather than lain together so that there was blood on the woman's face and the man's shoulder. They hunted down pleasure as the wolves will follow and run down horses....'* (The *Inheritors* 176-177). Golding hammers his belief that by perpetrating violence and cruelty in nature we tend to destroy the living things in nature. It is therefore our primary duty to keep our pact with Mother Earth unscathed. Golding is naïve to the point of crudity when he states that, 'Indulging in senseless slaughter only means that we are violating our pact with Oa, our Great Earth Mother' (*The Archetype of the Great Mother in the novels of William Golding* 10). Both Darwin and Wells come in for a great deal of criticism in the hands of Golding in the novel *The Inheritors*, for their attempt to equate civilization with culture.

*Pincher Martin* consists of one action that is entire and complete in it and it is replete with violence. The flashbacks in the past life of Pincher go to prove that it is a story that has violence written all over it. The egoism and violence make him cruel, self-aggrandizing and revengeful. He derives immense joy by inflicting pain on others. He oppresses others in as much as Jack in *Lord of the Flies*. The sadism in his nature is not only confined to theft and brutality but also extends to rape and murder. Even while defying death, *he was convulsed and struggling* (*Pincher Martin* 200-201). He knows that if he is free from all emotions, he can tide over the crisis of conscience in his life. Hence he represses all emotions and only allows the emotion of hate to dominate the other emotions.

He is the embodiment of violence and greed. He is a visualiser of memories and those snatchers of memory are full of violence ..... *Waiting for the police by the smashed car, Waiting, for the shell after the flash of the gun* (*Pincher Martin* 139). Goldsmith reduces Pincher to a pair of red claws and in doing so he underscores the truth that when man is violently attached to his corporeal existence, he cares, precious little, for death and oblivion. It is not unusual to see a civilized man showing his nostalgia to return to his primitive state of existence. In Pincher's urge to return to his primitive state, the reader can see signs of his regression to the low forms of animal life (*Primitivism* 44).

His pathetic condition at the end has compelled Weekes and Gregor to quote these memorable lines from *Pincher Martin: Broken defiled, Returning to the earth, the rafters rotted, the roof fallen in ----- a wreck. Would you believe that anything ever lived there?*

(*Pincher Martin* 207)

In *Free Fall*, Golding shows that violence can manifest itself through mental torture. The wily psychologist, Dr. Halde, in the Nazi concentration camp, makes no bones of the fact that, *It is the karma of our two nations that we should torture each other* (*Free Fall* 144). Dr. Halde has to garner all the information from Sammy, so he inflicts all kinds of mental torture on him. Weekes and Gregor imply the irony in the torture when they remark thus: *He is not tortured, but allowed to torture himself* (*Golding, The Man and his Books* 184).

The inordinate egoism of Sammy Montjoy is subject to censorious criticism by Dr. Halde:

*What embryo if it could choose, would go through the sufferings of birth to achieve your daily consciousness? There is no health in you, Mr. Mountjoy. You do not believe*

*in anything enough to suffer for it or be glad. There is no point at which something has knocked on your door and taken possession of you. You possess yourself.*

(Free Fall 144)

During his schooldays, we see Sammy in the thick of gang warfare. There is further decline in his moral character and one day he robs the chastity of Beatrice. Sammy charts the moral decline of despotic persons who lose their freedom and take to torturing innocent people:

*Once a human being has lost freedom there is no end to the coils of cruelty, I must..... They said the damned in hell were forced to torture the innocent live people with disease. But I know that life is perhaps more terrible than that innocent medieval conception. We are forced here and now to torture each other.*

(Free Fall 115)

In *The Spire*, Jocelin is presented as a religious artist who cherishes the ambition to build a four hundred foot spire. His soul agony, arising from the injury that he has inflicted on others, finds soulful expression in his frank admission to the dying Roger, *Once you said I was the devil himself. It isn't true. I'm a fool. Also I think ----- I'm a building with a vast cellarage where rats live; and there's some kind of blight on my hands. I injure everyone I touch particularly those I love. Now I've come in pain and shame, to ask you to forgive me* (*The Spire* 210-211).

Violence can be explained as an expression of martial tendency of man to show his power and to subdue the weaker sections in the society. On account of it being a base instinct in man's psyche, it is linked with the primitive, barbaric self of man. This inherent barbaric self of man is always in search of pride and hate. Golding's novels exhibit the increasing tendency of people to resort to violence in any form. Since violence is so common to the modern world are we to conclude, that Golding's novels do not point to any message to his readers? Golding seems to suggest that it is impossible to eradicate violence from the society. But by reposing our faith in the spiritual life, we can scale down the level of violence. In a public lecture sponsored by British Council in Bombay, in March 1987, he was asked, "Would you say than an escalation of the cult of violence and repressed sexuality in the twentieth century are the key factors in the decline of spiritual values in society?" He replied in the affirmative. His message seems to be related to spiritual cosmology. He expects us to go back and search the basic truths that have been obscured by material progress. In this way, he underscores the need to reach out to the universe and through the universe to God.

## REFERENCES

1. Bell, Michael (1972). *Primitivism*, The Critical Idiom Series, (ed.) John D. Jump, London: Methuen.
2. Golding, William (1954). *Lord of the Flies*, London: Faber and Faber.
3. Golding, William (1955). *The Inheritors*, London: Faber and Faber.
4. Golding, William (1956). *Pincher Martin*, London: Faber and Faber.

5. Golding, William (1959). *Free Fall*, London: Faber and Faber.
6. Golding, William (1964). *The Spire*, London: Faber and Faber.
7. Grimes, M.L (1977). The Archetype of a Great Mother in the novels of William Golding, *Dissertation*, University of Florida.
8. Kinkead-Weekes, Mark & Gregor, Ian(1986). *William Golding, The Man and his Books*, (ed.) John Carey, London: Faber and Faber.
9. Karl, Frederick.R(1968). *A Reader's Guide to the Contemporary English Novel*, London: Thames and Hudson.
10. Nossen, Evon(1968). 'The Beast-Man Theme in the works of William Golding', *Forum*, **9**, Ball State University.

## THE PORTRAYAL OF HUMAN RELATIONSHIPS IN THE POEMS OF GAURI DESHPANDE

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### ABSTRACT

*The present article is an attempt to trace the multiple themes projecting the human relationships in the poems of Gauri Deshpande. She throws light upon the different relationships mainly focusing on man-woman relationship. She finds herself tossed to the destiny of woman as a protector of every relationship and her poems convey a deep sense of pain and despair caused by frustration in love which is undoubtedly the base of every relationship. Her thematic canvas and subject matter includes hope, search for identity, nostalgia, death, despair, violence, historic concern, love, and solitude. She excels in her poetic creativity and the fabric of sensibility that she articulates in the portrayal of multiple relationships with their significance. She writes on the physical aspects of man-woman relationship with a sense of frankness and freedom of expression, capturing vividly the manifold dimension of gender relationship.*

**Keywords:** carnality, Family, marriage, Parent-children conflicts, ‘The Hangman Awaits’

### INTRODUCTION

According to the traditional Hindu view, marriage is a sacrament. A marriage takes place after a formal social ceremony or legal protocol. In every society whatever race, community or religion it belongs to, marriage is the union of two souls, that of a man and a woman. They both play their roles to set up a family having their own importance but focused on the relationships projected by Gauri Deshpande, the whole study is centralized to the specific role and treatment of woman in the family. The woman is defined in terms of role of a wife, of a mother and above all that of a human being. She is tender and delicate in terms of love, affection, generosity and sacrifice.

Deshpande’s themes in the study of relationships are the treatment of parent-child relationship, woman-woman relationship. An emotional portrayal of the relation to her pet dog is also displayed through her poems. The basis of every bonding depends on emotional aspect

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that further lays ground for the survival and stability of the relationship. The key point of her poems is the victimization of woman who is the ultimate sufferer of destiny, society, masculine persona and even the children. The concerns of her poetry are the complexities, inner conflict, social alienation and aversion. In Indian society, marriage as far as the position of woman is concerned, treats her as a commodity and property to her husband and so she is bereft of respect, identity and self. Deshpande's poem 'Man and Woman' reflects the feeling of inferior position of woman:

*That she could with such ease  
Be enslaved by your skillful hands  
Beggars heart and from Himalayan heights  
Condescend to your warm your bed  
Stiffen your manhood  
And bear your spawn.*

Gauri Deshpande clearly reveals her experiences of family. The poem 'Still Life No.2' reflects upon the importance of home and family:

*From creeping dismal sidewalks  
We crowd into homes that disguise  
Concrete with curtain a  
Picture flower rug  
And hopelessly clutch at each other  
For we at least are flesh; (1-6)*

'Portrait' delineates the dismay of mother and child relationship providing the images of a Christmas day with mother and child. The poem expresses a strain of poignancy which further elaborates the experience of a woman eagerly questioning for love. The presentation of woman as a whore who is forced to take up such a disgusting path accepts qualms by shame faced "Rustling figure". The poem recognizes the inextricable relationship between the ideal roles of a woman and the dependents. Mother and child relationship is projected through filial identity which strengthens a woman to go beyond the limitation of morality and shame just for her child's sake.

In 'There Was a Time', Gauri romanticizes the world of dreams and desires to show the ecstasy of Indian woman in relation to her marital life. A happy married life-ensuring harmony in marital relation as acceptance and adjustment of precious attitudes and sentiments of both the partners is what a woman asks for along with acknowledged wifehood and motherhood. But future hides the role of subjugation where she becomes conscious of meaningless existence. Gauri has revolted against the patriarchal mentality and gender-biased portrayal of man and woman. However, she never rejects the existence of man in woman's life. A woman recalls her maiden life lying dreamless during night in the stranger's arm to whom she is married in passive submission. She is to be part of completeness to his living and to find solace on any profit in her own personal efforts, she is required to continue serving him mere as a body rather than as a mind or a soul. Her agony is reflected with much seriousness and with striking melancholy:

*And days slide by meaningless  
And nights remain enclosed  
Dreamless in stranger's arms  
And our solace  
Will be: we knew  
Of you and me. (15 - 20)*

Poem 'On Going Away' details woman's transformation to a woman's world. The exposure to the filial relationship the poet makes a clear expression of approach to her partner who is complementary to her world. Through poem she expresses her psychological satisfaction. The poem is a beautiful example of an amicable relationship. The image of a traditional woman is delineated here to epitomize Indian womanliness:

*And through these green fields I come  
Home to my sister; waiting,  
Who says, so there are you. (12 - 14)*

Echoing other contemporary poets like Nissim Ezekiel and Kamala Das, she feels no reservations or moral inhibitions about making confessions of her experience of carnality. The following excerpt on love-making from 'Poems on a Lost Love' shows her candid expression of the felt experience:

*I am earth, Vast deep and dark, And I receive,  
The first rain, Sweet, generous,  
Lashing, throbbing; Its smell forever in my blood,  
Its imprint deep  
Within my quirk. Yellow daisies burst out, On my breast and thigh  
At its very touch.*

'In Absentia' echoes the absence of true love in a man-woman relationship. The libidinous urges liberate a woman; the reconciliatory attitude of a woman is projected in the poem:

*And from our present misery  
Do yearn to believe  
That that too was a reality  
To be lived again,  
As much as this -  
Of not - you - and - I . (25-30)*

In the Indian society, woman derives her social status from her husband. The institution of marriage being a sacramental character in India, divorce is considered a taboo and is not widely put into practice. Social relationships of the divorced couple often get disrupted. Woman in particular bears the brunt of traumatic situation that arises as the aftermath effects of divorce in the form of loneliness and alienation. Gauri throws lights upon her loneliness and frustration in the poem 'The Eclipse':

*When from the good fortune of smiles  
And caress we move into the Inexplicable*

*Unintelligible darkness of sorrow,  
Delay, departure, suspicion.*

In addition to the trauma of divorce itself, the transition related to divorce often involves geographic moves, the addition of step-siblings and a new set of extended family members. Divorce followed by re-marriage involves the introduction of parent figures with multiple roles and overlapping relationships. The husband's relationship is marginally affected, whereas the wife's drastically changes. The wife moves out of the husband's house. If they stay in the same town, she does not enjoy same trust, confidence, and closeness as her previous counterpart does.

Gauri projects the Parent-children conflicts with regards to individual freedom and double standards giving greater freedom to sons than daughters. A girl child is allowed to remain a child only for short period of life. It is always stressed that her relationship with her parental home is temporary. Discrimination among boys and girls in terms of reinforcing speech, activity, play, food, education and other material possessions in India.

In the poems 'Marks I' and 'Marks II' she defines the body changes first and then delineates the state of sublimation diverting the impulse of experiencing love to a socially restricted behavior. The discovery of one's blooming with the attainment of youth is the beautiful image that echoes through 'Marks I'. The poem points out a traditional theme. A girl is a maxim of anxiety for her family, especially parents. The anxiety relates her every day growth to the search for a perfect groom, the inane response of the society and the huge expenses of marriage ceremony. The spring of the youth is not enjoyed by the parents and the girl is left alone in new found world of ecstasy. The new experiences and tenderness of love converts into worry and their relationship suffers. The bloom of womanliness is turned into a secret pleasure creating a chaos and darkness around.

The memory of love and family owns a sensibility. Gauri Deshpande depicts how the relation of a woman to another woman unfolds when she introspects her domestic privileges. The willingness to merge one's identity with the domesticity at large is suggested with noticeable modesty and equal amount of humanity:

*My brother who held my hand at every bend,  
My lover about whose neck I must fall now  
Must fall on my shadow, end this duality now. (31-33)*

Man-woman relationship is the favorite theme of Gauri Deshpande which is observed in most of her poems. She expresses her feelings in her poems through her woman characters. She shares her experiences of sufferance as a woman in the male-dominated society. Her poems are the best projection of woman psyche. Her observation of the woman's mind is presented in her poems in best words. The woman is defined in terms of role of a wife, of a mother and above all that of a human being whereas woman in terms of love, tenderness, affection, generosity and sacrifice is innate and inherent in Indian tradition.

Man-Woman relationship is hinged on physicality. The first sight of man for a woman and that of a woman for a man forms the first ground of love between them. Thus, body is the medium of initial attraction for both of them. The encounter between man and woman is

purely physical which inspires a man merely to derive pleasure from woman's body without having any lasting emotion or deeper understanding or admiration for her. Here the conflict arises. In the poem 'Summer' the person's gaze is essentially the "man's gaze", which sees woman merely as a body, a desirable body, an object of sex, and nothing more. There is no desire to be expressed that seems to relate to her as a person.

Gauri Deshpande is primarily concerned with the exploration of the various intricacies and inner conflicts of man-woman relationship. Her major thrust is on the importance and impact of the corporeal on a bond of love.

*What had bound us was the thin thread of hate and fear  
Not the many-stranded heavy coiling rope of desire. (10-11)*

She divulges her womanly urges, seeks out redemptive measures, and concomitantly tries to locate and secure her position in the man's world.

Her poem 'Virtue Too' also reflects upon the harassment a woman undergoes in the name of carnal ideology. She has no hesitation to admit that the hypocrisy of the righteous society threatens the growth of woman and she is perplexed at the thought of the exposure of the real face of the society. She is seen curious to bring equal rules for man and woman. She strongly believes that the patriarchal hierarchy spoils the sanctity of the righteous world:

*But to tell the truth I haven't got  
The strength to let anyone else see  
How sleepy faces can be  
With the aid of virtue. (12-15)*

At places, she depicts woman as dismayed by the non-fulfillment of physical as well as emotional urges. She finds the lack of enlivening environment in love-making. The whole enterprise of love-making neither physically satisfies nor provides any mental fulfillment; rather she is emotionally and spiritually agonized. Her marital relationship seems to her a mere dry and dreary ritual that leaves her disenchanted as man does not penetrate into the 'plunging depths' of her 'soul and body'.

The poetic manifestations of man-woman relationship get a solid ground in the poems of Gauri Deshpande. She is deeply concerned with man-woman relationship. Her poems picture the crises of self which most probably provide a vast exposure to the fears and doubts prevalent in the psyche of woman. The projection of an identity of uncertainty and struggle of the psyche through poems in 'lost Love' she tries to find a solution for the presage existing in her relationship with man.

*When you left me lying .....  
I hated the cold air  
Drying my sweat on your hands  
And driving my thought  
From your tired thigh. (1, 5-8)*

The expression of love and carnal pleasure seem to be wooden as she finds no solace or even enjoyment in her marital relationship. For her, man is beyond the depth of true love that

makes all the difference between the love of soul and body. Her poem 'No more' portrays the same condition:

*Plunging depth of Souls and bodies. (3-4)*

'The Hangman Awaits' brings the aftermath of carnality. The physicality is the essential element of man-woman relationship which lays foundation and provide solidarity to the relation of man and woman. The woman persona is conscious of social embarrassment. The poet thinks that the society does not permit a woman to express her true identity and she treats the poem at the psychological level indicating the reaction and response of a woman in quest for self:

*I can see the noose wait, But fear to tremble,  
As I may quake the house (21-23)*

Her poems talk of the indifference of the man who very proudly thinks that woman is under his supremacy and it is her duty to act upon his will. The feel is reflected from her poem 'Souvenir' which speaks of the role allotted to a woman for her contribution to domestic life nurturing of children and house-keeping along with radiating love, warmth and affection. The children and the husband are so accustomed to her role playing that her own demands and requirements are not at all noticed of. The traditional Indian womanhood is described as the preserver of home and the protector of culture. This small poem also reflects upon self-satisfaction through motherhood:

*And so meaningless is the drift of years  
That the only residue is this habit of pain. (7-8)*

Gauri Deshpande's portrayal of man and woman clearly reveals the idiosyncratic traits of relationship. The dilemma between her desire to express love and her fear of being ridiculed haunts her like a cruel passion and she feels as if something is chasing her day after day. Carnality for woman is still considered as a restriction. A woman also suffers from the longing of love as her counterpart but is forced to suppress her urge and suffers from want of love in total privacy:

*A woman learns to love a little,  
A man who praises her hair,  
And reads her poems and knows*

Gauri Deshpande strongly opines:

*"A woman has to compromise and adapt to the circumstances she is situated in, and for that reason she is compelled to have developed the 'habit of pain' and the grit of surviving in a milieu that is meaningless" (Singh 2004,p. 78).*

Through the poem 'We Hadn't The Guts' she makes it comprehensive that the bitter truth of such a relationship as man and woman have is, just the hollowness and barren:

*To us is given the hollow task,  
Of watching the sunset in a frame of tears  
Facing a face in our eyes we can bear,  
And hoping to grow a seed in sand and on rock. (5-8)*

Gauri Deshpande also shows some sort of discontent with conjugal life. She realizes the disillusioned relationship with her man persona portraying the dark side of it as:

*There is never any truth... Between them, never any rapport  
For they have not in swift one look, Assessed each other's morning-after face...*

H. L. Amga's observation is worth to be mentioned in support of her realization:

*"Her conceptual strategies seem to hover between two extremities of love, the one dealing with the exuberant feeling of conjugal satiety, and the other with the etiolate nausea or boredom, which comes after the surfeit of love".*

The poem "*The Guest*" also defines the dark side of her relationship on her parting with her lover-admirer:

*You are gone now...I lie empty, barren and bereft. In the moment we part. (83)*

The tone is that of repentance and realization. The poet understands the worth of honest and truthful communication in love that sustains a healthy and fresh relationship. Her portrayal of family and her sense to carry out familial responsibilities find a room in her poems. Her '*Poem in winter*' reflects upon her desire of having a child with 'blue eyes and golden hair' though the child takes features after her husband. That very idea is common for every woman:

*The smoky-blue eyes and golden hair, I wished upon my child  
That is born with her father's face. The laughter in the face upturned. (34-37)*

Her poem '*A Child Waking*' gives a picture of sweetness of love that she ever felt in her life when she experiences the beauty of love through the everlasting touch of hand that perhaps becomes one of the beautiful moments of her life:

*Your hand is resting in mine, Wrapped in Cloth -of- Dream. (8-9)*

Her poems present a typical womanly sensibility caught in love and portrays dejection as an adverse effect arising out of it. Her poetry depicts a woman caught in the web of relationships, her need and responsibility for love, care and fulfillment. She records the sensitive feelings of a woman who loses her identity to adjust in a family. Indian woman poets portray their love for other family members too. She finds her house as a garment that provides her solace. She conveys the feel of fulfillment through the poem '*A Sentimental Journey*':

*"And the house fitted me like a garment,  
Of unlamented unremembered moments,  
And with every step." (4-6)*

The sight of a man approaching her fills her with a sense of rare relationship that makes her realize the humanity as a natural relationship and she is taken aback at the uncertainty of her behavior to him. She would carve out a solitary space for herself because the society has shaped her in another direction of social- role. Her poem '*Thinking Disgustedly*' makes a clear perception of humanity in her:

*With this beauty in his eyes,  
And sitting on his lashes. (10-11)*

'The Habit' reveals how the humanity naturally takes its color through a situational tragedy. The loss of a puppy dog drives her to cry and her heart is bent before the destiny that is merciless. The poet is consoled for the same and is assured that the phase would soon be over. Surprisingly the poet expresses her realization of the death of her puppy dog as the loss of some natural relation:

*I lost an arm, A friend, a child, a shade,  
And they were right.  
I got over it, I got used to it (9-13)*

Gauri Deshpande has written not only about man and woman relationships but also about filial and familial relationships. She has been frank about love- both carnal and spiritual. She deals with the other emotional and spiritual aspects such as compassion, care, concern and respect for others. Gauri Deshpande's poems reveal a sentimental outlook. In a nostalgic mode and mawkish tone, she celebrates the sweet-sour reminiscences of her lost love. The expectation of physical happiness along with mental and emotional fulfillment is the ultimate desire of woman which is well projected in the poems of Gauri Deshpande. The barrenness of married life and the dissatisfaction of marital relationship is the dominant theme of her poems.

#### REFERENCES

1. Deshpande, Gauri(1968). *Between Births*, Kolkata: Writers Workshop.
2. Deshpande, Gauri(1970). *Lost Love*, Kolkata: Writers Workshop.
3. Kumar, Satish (2001). *Indian English Literature: A Survey of Indian English Poetry*, Bareilly: Prakash Book Depot.
4. Amga, H. L.(2000). *Indo-English Poetry*, Jaipur: Surabhi Publications.

## **BOOK REVIEW**

**Review by Amarnath Sinha\***

### **IN THE QUEST FOR POLITICAL PHILOSOPHY**

**AUTHOR: Raju Parulekar**

**INDUS SOURCE BOOKS, MUMBAI,2017,pp.178**

**Price: INR 299**

*In the Quest for Political Philosophy* by Raju Parulekar is a collection of short essays through which the author engages with the various dimensions in which the political presents itself in India. The topics of the essays are varied and range from society to politics to media, art and so on. Through his essays Parulekar grapples with the different shades of power, politics and morality and seeks a direction for the future of democracy.

At the outset, the author begins with the capacity of ideas. Ideas can be dangerous as they can bring down the established political power. Radical ideas can attract the youth as they have the power to transform the human condition for better. Power is never impenetrable. What comes after the existing centres of power are defeated is also a seat of power. But there is always an inherent danger as the new regime built on fresh ideas may also degenerate to another shackling power apparatus jeopardising freedom. In our times, globalisation is a universal all pervasive idea which ironically has still remained a philosophy of business and not of human emancipation.

The theme of how ideas survive, get established or decay runs through the essays. Parulekar describes the glorious days of the Maratha empire and seeks answers as to why was the glory lost? The historical short-comings, blunders and aberration which caused the demise are discussed and it is proposed that only a movement led by the Maratha people against their leaders can transform things. There is a need of mass cultural movement and in order to shake up the system people may even consider boycott of various sorts, a call which appears a little far fledged. To engage is often more productive in politics over boycott.

Two organisations – RSS and the Shiv Sena are discussed in separate essays. The author sees the roots of formation of the RSS and its growth to “The Muslim issue”. The author questions the basic position of the organisation which he feels has remained unchanged

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since its inception, i.e., the duty for protection of the Hindu culture which can only be done by organising them under one umbrella. But he questions – *In a land where Hindus are a majority, who are they to be saved from?* He questions the idea that because Hindus were not united they suffered at the hands of Muslim. He argues that, in fact, the lack of organisation / absence of one head among Hindus, worked in their favour during the invasions as there was no single authority to be defeated to turn it into the land of Islam. He feels that rationalism of Hinduism is the biggest hurdle before organisations like the Sangh and that is why they are not able to do much, other than organising reactionary events. He argues that the Sadhus and Saints promoted by the organisation can only take the community to the dark ages but he does not account for the reasons for its popularity or for the massive majority that its political wing enjoys today.

The other organisation Shiv Sena needs to be looked in a perspective which is devoid of fear, affection and hatred. It found its roots against the policies of the Congress. The Shiv Sena had managed to give voice to the suppressed political aspirations of the ordinary youth. A regional agitation converted it into a robust political party in the 1990s as it grew on Bala Saheb's inspiration. The author draws similarities between Bala Saheb and Mahatma Gandhi - both were staunch Hindu, extremely aggressive, dictatorial and had die-hard resolute followers, which any reader will feel, that such simplifications conceal more than they reveal.

The author is right in asserting that Sena's definition is *Hindutva is political*. Even though, Gandhi was truly Hindu he never used the term Hindutva etc. Bala Saheb often said that he did not believe in democracy and had the tendency to reduce complex problems to oversimplified solutions- if there is trouble in Kashmir, then why not send battle tanks? The author rightly feels that when you do not understand the depth of an issue then ----even though you can entertain the public and receive support from the middle class, the problems will not go away with such simplified suggestions. The problems of Maharashtra are nepotism, corruption, utter disregard for people, and lack of livelihood opportunities, which have remained the same leaving the common man hopeless.

Talking about the anatomy of the Thackeray family he says that the entire family--- revolves around the name of Bala Saheb. Even though the Shiv Sena was founded in the name of Marathi pride for the "Marathi Manus" there was an absence of philosophy or ideology and ethics of mortality in the organisation. While for Bala Saheb, the policy was 20 per cent politics and 80 per cent social work, it is not the same for the next generation. Bala Saheb who minced no words in criticising the Congress for dynastic raj of the Gandhi family, ironically, in his last days, himself appealed the Marathi Manus to take care of his beloved son and grandson Uddhav and Aditya. The author does not put much hope in Raj Thackeray, saying that he has been caught up in the warp of duplication and merely imitates Bala Saheb, and lacks political imagination. It is for the Maratha people to decide how to associate themselves with the Thackerays.

There is a dedicated chapter about the present Prime Minister Shri Narendra Modi whose ascendancy is seen by the author as a potential revolution. The present regime is very different from the earlier ones. Under the present regime fiefdoms are not respected and efficiency is valued. The common voter expects results on the things which matter to

them. The author puts long wish list that the people expect from the Government Many of the items of the wish list such as minimum government, maximum governance, a simplified tax system, attack on black-money etc some of which have already been taken up and implemented on a war-footing.

In the essay on *Woman, Market and the Politics of Sex*, he laments the objectification of women in the market situation which serves the business and market interests but robs the women of their dignity and respect. The author also delves on the issues of nudity and art and resents the suffocating atmosphere where art is misunderstood and creativity is crushed. He cites how M.F. Hussain was criticised by Hindu extremists which was nothing but hypocrisy and an attempt by groups to only focus on the purist part of religion. There are so many instances in the mythology which if painted or depicted would put many to shame but it is hypocritical for those who take a purist stand and try to dominate art and literature. The author shares some interesting observations, like he mentions that Hussain decided to re-locate to Qatar not due to religious extremism but due to tax issues. IT officers bothered him with strange questions about price of painting according to its size, and fluctuation of their price based on market situation. Talking about the media he observes that it has become like deluge, which is dominating and uncontrollable but hopes its exact role would be sorted out in times to come.

The author picks up an interesting co-relation – between efficiency and morality! He feels that efficiency can be a driving force but it can still exist with the immoral - such as a Chief Minister who may be efficient but thoroughly corrupt. An attempt is made to understand the complexities of morality in the history of human evolution. The learnings of the Upanishads have faded and blurred now alongwith progress of the mankind. Are we becoming a basic and primitive society that makes a moral judgement too often? Parulekar leaves us with that question, and many others.



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