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Strengthening the effectiveness of politics as an instrument of social change towards a just social order

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Key Message

During the last Lok Sabha elections in May 2014, young Rajiv Gandhi-Research Assistants to Legislators (RG-RALs) from RGICS went to constituencies across the country to study the extent to which governance issues were part of the election campaign. This is because governance is central to politics -- "politics" in its broadest sense is commonly defined as "activities associated with governing a country".

What they found was most interesting, but greatly troubling: systemic issues of governance rarely figure in election campaigns. What campaigns typically cover are either vague promises (such as "ache din zane vale hair"; "minimum governance, maximum government", “development" and so on), or micro-level investments (such as building a particular infrastructure project).

Where literacy rates are low and public exposure to the media is weak, even these issues do not figure prominently. In those areas, ccommunity leaders are used to mobilize votes through inducements of various kinds, often in blatant violation of the law. The main focus is on emotive issues that seek to pitch the poor against each other, creating and reinforcing artificial divides amongst the poor -such as caste, religion, language and region. The idea, of course, is to divert the attention of the poor from higher level governance issues -- issues of "policy", the "rules of the game" that are set out in laws, administrative policies and budgetary allocations.

Policies are in fact the meat of politics, and should be the main focus of election campaigns.

For example, the impact of schools is driven by education policy -consisting of the rules that determine the goals and objectives of education, the philosophy and science of education (for example, propagation of faith rather than the promotion of reason), the con- tent of curricula, pedagogy, the relationship between student and teacher (hierarchical? promoting egalitarian values?), etc. Most importantly, policies will prescribe how power over education is distributed -who decides what on education.

But sadly, politics seems to have become quite non-political. It is today focused mainly on patronage and grievance redress, rather than on state policy. This is a matter of great concern because the importance as well as breadth and content of state policy is increasing at the same time as the interest of politics in policy is diminishing.

The changing role of Government from producer and supplier of goods and services to policy maker and regulator has resulted in a quantum increase in the range, scope and complexity of State policy and in the role and power of institutions that make and implement policies.

* Accelerating global integration has given rise to the need for establishing a vast range of policies and regulations to comply with requirements emanating from international and transnational arrangements and institutions.

* Powerful independent regulatory institutions (IRAs) have emerged as policy making and implementation bodies, independent of the political executive and armed with legislative, administrative and judicial powers.

* Consistency, transparency, predictability, accountability, efficiency and effectiveness in the development and application of policy is today of unprecedented importance.

* In-house State capacity to develop and implement policy has not been able to keep pace with the explosive demand for new knowledge, skills and institutions needed to meet this demand. In India, generalist bureaucrats and ministers who lack necessary domain expertise have become dependent on think tanks and consulting firms in many areas to supply them with the content of law and policy in many areas. In turn, think tanks and consulting firms (including law firms) are often used by business houses to advance their interests in policy making. Some business houses have floated think tanks that take a proactive role in influencing policy.

* As a result of these developments, common people and their democratic representatives are becoming increasingly alienated from the content and process of developing and implementing law and policy. Given that the power to make law is a most fundamental expression of the rights of people in a democratic framework, the growing distance between common people and policy is eroding the very foundations of democracy.

In this context, RGICS 's work goes beyond a narrow focus on the content of policies and concentrates on *strengthening the systemic framework for policy formation and implementation*. Our particular focus is on strengthening the capacity of political activists, including elected representatives, to represent the voice of people in public policy decision-making. NGOs, social movements and civil society organizations have also a central role to play in bringing voice to governance.

RGICS extends assistance to them as well in their struggle to bring the voice of people to the process of policy making -while scrupulously respecting their autonomy to take a position on the content of policy. This requires, first, the strengthening of the capacity of legislators who are, in a democracy, the sovereign authority vested with power to make policy on behalf of the people.

To this end, RGICS has for three years now been assisting elected representatives and political leaders with knowledge inputs and ideas on policy development and implementation with a view to enhancing their capacity and role in engaging with policy issues.

The 75 issues of Policy Watch have been a mainstay of our efforts in this direction. Through our work, RGICS's core aim is to synergies politics (defined broadly) to the central purpose of the Indian State - social change for securing in our country a just social order.

Director
RGICS

Union Budget 2014-15 in India: A Paradigm Shift?

Source: IB TIMES

According to the noted economist Shankar Acharya, "Manmohan Singh's paradigm-shifting 1991 Budget had comparable preparatory time. True, that radical Budget was presented in the midst of a balance-of-payments crisis. But this Budget also came at a time of quasi-crisis - with industry stagnant for two years, years of high consumer inflation, depressed investment, rising unemployment and low economic growth. What's more, this Budget was presented by the freshly mandated NDA with development as its central plank" (Acharya 2014). BJP led NDA government has provoked the mood of the nation, and has heralded with a mandate on "Development for All". General expectation and mood of the nation is to wait for "*acche din*". The first test of this government was done through the release of its maiden budget, which to a large extent has reflected its core ideology and agenda. A budget is broadly a yearly financial statement of any country. It frames out the estimates of income and expenditure heads and expresses strategic plans of business units, organizations, activities or events for future in measurable terms, directing the roadmap of economic strategy of a country, which reflects the core believes and principles of its government. Thus it is more than mere accounting and necessarily reflects the ideology of a government of the country. The present piece attempted a critical assessment of this much awaited budget of India's new government. Investment and expenditure, the two critical areas are briefly examined.

Investment Scenario

The finance minister in his budget speech said that "the policy of NDA Government is to promote Foreign Direct Investment (FDI) selectively in sectors where it helps the larger interest of the Indian Economy…..The Country is in no mood to suffer unemployment, inadequate basic amenities, lack of infrastructure and apathetic governance" (Arun Jaitley, Union Budget Speech July 2014). Thus for economic bouncy, the budget 2014-15 has laid the strategy and roadmap for investment revival, both through private and public investment. Revival of private investment through FDI, FII, PPP models are promoted. FDI ceiling thus has increased in the present budget in following areas,

- 26 per cent FDI in Defence manufacturing is being raised to 49 per cent with full Indian management and control through the FIPB route.
- The composite cap in the Insurance sector is proposed to be increased up to 49 per cent from the current level of 26 per cent, with full Indian management and control, through the FIPB route.
- To develop Smart Cities, requirement of the built up area and capital conditions for FDI is being reduced from 50,000 square metres to 20,000 square metres and from USD 10 million to USD 5 million respectively with a three year post completion lock in.
- FDI in the manufacturing sector is today on the automatic route. The manufacturing units will be allowed to sell its products through retail including E-commerce platforms without any additional approval.

The major initiatives in PPP model in the budget are as follows,

- The budget declared that an institution to provide support to mainstreaming PPPs called 3P India will be set up with a corpus of Rs. 500 crores.
- By harnessing private capital and expertise through PPPs, budget 2014-15 has promised to develop at least five hundred habitations with provision of safe drinking water and sewerage management, use of recycled water for growing organic fruits and vegetable, solid waste management and digital connectivity. It also promises to develop metro rail systems, including light rail systems with PPP mode.
- Budget also proposes a revival of handloom/handicraft sector through Hastkala Academy with PPP mode in Delhi.
- Scheme for development of new airports in Tier I and Tier II will be launched for implementation through Airport Authority of India or PPPs.

- Scheme for development of new airports in Tier I and Tier II will be launched for implementation through Airport Authority of India or PPPs.
- An additional 15,000 km of gas pipelines will be developed using appropriate PPP models.
- To develop world class convention facilities in the state like Goa, PPP mode will be encouraged.
- A modified Real Estate Investment Trusts (REITS) type structure for infrastructure projects is also being announced as Infrastructure Investment Trusts (InvITs), which would have tax efficient pass through status for PPP and other infrastructure projects.

SEZ, infrastructure and industrial corridors also have received attention in following major areas,

- Rs. 11,635 crore will be allocated for the development of Outer Harbour Project in Tuticorin for phase I.
- SEZs will be developed in Kandla and JNPT.
- Extending the existing 24x7 customs clearance facility to 13 more airports in respect of all export goods and to 14 more sea ports in respect of specified import and export goods.
- The facility of Electronic Travel Authorization (e-Visa) would be introduced in a phased manner at nine airports in India where necessary infrastructure would be put in place within the next six months.
- A project on the river Ganga called 'Jal Marg Vikas' (National Waterways-I) will be developed between Allahabad and Haldia to cover a distance of 1620 kms, which will enable commercial navigation of at least 1500 tonne vessels.
- A National Industrial Corridor Authority, with its headquarters in Pune, is being set up to coordinate the development of the industrial corridors, with smart cities.
- The Amritsar Kolkata Industrial master planning will be completed expeditiously for the establishment of industrial smart cities in seven States of India.
- The master planning of three new smart cities in the Chennai-Bengaluru Industrial Corridor region, viz., Ponneri in Tamil Nadu, Krishnapatnam in Andhra Pradesh and Tumkur in Karnataka will also be completed.
- The perspective plan for the Bengaluru Mumbai Economic corridor (BMEC) and Vizag-Chennai corridor would be completed with the provision for 20 new industrial clusters.
- Kakinada, its adjoining area and the port will be developed in the region with a special focus on hardware manufacturing.
- Proposed to establish an Export promotion Mission to bring all stakeholders under one umbrella.
- Set up six Textile mega-clusters at Bareily, Lucknow, Surat, Kuttch, Bhagalpur, Mysore and one in Tamil Nadu with an allocation of Rs.200 crore.

Such initiatives of NDA budget clearly indicate a path towards "Development", but may not necessarily lead to the goal "for All". An unbridled opening up even in many sensitive sectors to private parties without any safeguards, ignores the consequence of corruption, displacement of poor people, and environmental devastation. Thus emphasis on mega projects on shipping, ports, SEZ etc. will certainly displace and marginalize number of small communities. There is no clear mention of their alternative arrangement, compensation and protection. These will in all possibilities ensure growth but not redistribution. Moreover these are the channels for private players, who would have prominent role and voice, creating oligarchy and further concentration of economic power in the long run.

Thus the singleton agenda of "Development" may not be very conducive for India's diverse society and dispersed classes. As was seen in the aftermath of economic liberalization policy, a visible increase in purchasing power of one section of society has largely imbalanced the societal harmony and increased inequity. Consumerism of small rich and upper middle class increased, but the masses were deprived. Development became highly skewed and could not ensure social progress. Such idea of development also threatens the ecology of a country. In the name of infrastructure, a massive environmental damage takes place. It is interesting to observe that in BJP manifesto, there is not a single agenda on environment regulation, which clearly provide the scope for this budget to go ahead with development projects. This necessarily would violate the existing environment safeguards, which were introduced by erstwhile government. Thus while planning for mega projects in the name of development, the present government may put country's environment at risk. BJP manifesto emphasized "a conducive, enabling environment" for "doing business" in India. It includes logistic infrastructure, stable power, fast clearance of projects, world class investment and industrial regions as 'Global Hubs' for manufacturing. It

promises to "frame the environment laws in a manner that provides no scope for confusion and will lead to speedy clearance of proposals without delay". This is clearly an indication of pro-business agenda of the government ignoring both diverse social fabrics and precious environment of the country.

Expenditure Pattern

Expenditure is another area where the present budget reflected the broader goal of the government. Unlike previous government, where a pro-people expenditure pattern was visible in its plan expenditure share, the present government has attempted to make a shift from this frame. The following table can broadly show the pattern of expenditure of the present government for next one year.

Expenditure Budget: (Rs crores)

Heads	Actual 2012-13	Budget 2013-14	Budget 2014-15	Percentage Change	
				From 2013-14 to 2014-15	From 2012-12 to 2013-14
Total Expenditure	1410372	1665297	1794892	7.78	18.08
Non Plan Expenditure	996747	1109975	1219892	9.90	11.36
Plan Expenditure	413625	555322	575000	3.35	34.25
Share of Plan Expenditure in Total	29.33	33.35	32.04	-	-

Source: Estimated from Union Budget Documents 2014-15, Ministry of Finance, GoI

While looking at the overall expenditure pattern from the above table of the present government compared to the previous government, one can notice the following:-

- The share of central plan expenditure in total has gone down in 2014-15 to 32.04 percent as compared to previous year, which was 33.35 percent. The plausible reason for such decline in share can be to deal with the fiscal deficit issue, but such fall in plan expenditure share may directly affect the vulnerable section of the society, as social welfare schemes will be affected.
- While looking at the percentage change in expenditure pattern, it can be seen that the increase was much higher between 2012-13 and 2013-14 than between 2013-14 and 2014-15, especially in plan expenditure. The present government has increased it by 3.54 percent, while the increase was about 34.25 percent between 2012-13 and 2013-14 of UPA government. This brings out a major structural shift in terms of plan expenditure pattern
- As further pointed out by Brinda Karat, the overall Central Plan expenditure of the Budget 2014-15 has been reduced in real terms, (The Hindu, 15, July 2014) due to inflation factor. The budget shows an alarming decline in investment in the public interest.

The reduction in plan expenditure broadly reflects that, it does not have strong pro-poor agenda. It has rather spoken about deprived sections in a very rhetoric manner and has not spelt out any clear vision for social sector, which therefore is highly skewed. The Centrally Sponsored Schemes of UPA government to ensure redistribution, rights and to enhance socio-economic resistance of vulnerable groups of the country would be suppressed to promote pro-market and pro-business agenda, which clearly favours the rich and neo-rich society. Such a step would ensure growth but not necessarily can do redistributive justice, which in the long run would widen economic inequality and would polarize various classes in the society. Thus for example the proposal to reorient the MGNREGA scheme towards focused capacity creating measures like rural roadways and irrigation projects and delivering responsibility to state government may deviate from its original aim and purpose of providing employment right to a rural Indian. Similarly for scheme like PMGSY, the slash in budget is about 34 percent, from absolute amount of Rs 21700 in 2013-14 to Rs 14391 crores in 2014-15. Similarly in IWSM scheme, the amount has gone down to Rs 2142 croes from Rs 5387 crores in 2013-14 (60 percent). The Backward Region Grant Fund also has seen a slash of about 49 percent from Rs 11500 crores to Rs 5900 crores. Schemes like Rajiv Gandhi Panchayat Sashaktikaran Abhiyan and Pre-Matric Scholarship for Minorities have not given any al-

location in 2014-15 budget. Through such cuts in resource allocation in pro-poor flagship programmes, the budget makes a huge shift from redistributive justice of UPA ideology. This signifies that right-based policies have not received enough attention. It has no in-depth roadmap for poverty alleviation programme. This will therefore reverse poverty reduction strategy under UPA regime.

Conclusion

Investment and expenditure, the two important indicators broadly spell out the vision of the NDA government. While taking a stand on "Development for All', the government is attempting towards a 'nationalistic' approach but may not be able to deal with the issues faced by a pluralist society like India. Multiple small vulnerable communities can be marginalised in this process of development and would be skewed towards rich and elite. This will further increase the disparity and inequality amongst people. The idea of "Development for All' therefore has to incorporate the voices and interests of all communities and people in such a way that society is not threatened with the risks of concentration of power, conflicts and fragmentation. Therefore "development must be sustainable – economically and ecologically and the development model must have democratic legitimacy and approval" (Chidambaram, 2013-14 Budget Speech). The present budget of 2014-15 has not taken any such stand to protect the interests of the masses and vulnerable. It rather encourages pro-business agenda, which may further concentrate power in few hands, can therefore be termed as a paradigm shift from erstwhile government budget agenda.

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Rakhee Bhattacharya

NDA Government's Labour Law Reforms

Unlike most developed countries the structural change occurred in the Indian economy did not follow the usual sequence from agriculture to industry and then services sector in terms of overall development and growth. India's experience in this regard is somewhat unique both with regard to the pace of structural transformation as well as with regard to the impact of that transformation on employment. Thus structural transformation though followed atypical pattern of agriculture yielding to industry, and industry in turn yielding to the service sector, but with a different dynamics. There was a period (1954-55 to 1966-67) during which the share of agriculture in total output was declining and the share of industry was increasing. This trend had however come to an abrupt halt with the share of services going up sharply... Such a large share for services in the total output at a relatively early stage of development is atypical – a trend that has prompted some economists to wonder if India has defied the conventional paradigm of economic development by 'leapfrogging' over the manufacturing sector by shifting directly from agriculture to services (C.Rangarajan, 2006). In 2013-14, the total share of agriculture contribution to the country's Gross Domestic Product (GDP) was only 13.9% but it employees more than half of the country's population. While the share of industry is almost stagnated around 26.1% for decades now; and the share of services sector has seen a big boom over the years and contributes 59.9% to country's GDP (CSO, 2014).

Source: live mint & The Wall Street Journal

In such fast growing dynamic world especially in the developing countries like India, the labourers are often under the risk of getting exploited in different ways. India has 1.25 billion people and is emerging as one of the growing economies in the world, but with a plausible reform in labour market. During the last decade and half,

there has been continuous focused public discourse on the issues of labour law reforms in India. Government regulation of labour markets has typically been on three fronts: the wage setting process, the labour working conditions and the hiring and firing process. Labour market regulation, like regulation in other areas of public policy, has been justified on the ground of market failure – that an unregulated market will not deliver efficient and equitable outcomes because of unequal bargaining power, information asymmetries and market rigidities (C.Rangarajan, 2006).
Under the constitution of India the subject labour is under the Concurrent List wherein both Union and State governments are enacting laws and implementing policies. India has about 44 labour laws enacted by the union government but largely implemented by the state governments (Planning Commission, 2011). In addition, there is large number of labour laws enacted by the State governments.

Labour Market: Major Challenges

While initiating the labour laws reform, the government has to take multipronged approach to protect the interests and livelihoods of different segments of labourers in the country. Majority of India's labour force are in the unorganised sector where the workers do not get any employment benefits and social security. According to a recent ILO report (103rd Session, 2013), the percentage of persons engaged in informal employment (non-agricultural) in India is 83.5%. Though the overall share of informal sector workers have declined slightly since 2004-05. But the proportion of informal workers in the formal sector has also increased over time by 9%, from 42% of total formal sector employment in 1999-2000 to 51% in 2009-2010 (Harsh Mander, 2014). Another ILO report (Sher Verick, 2013) based on latest NSSO data point out that even in the organised sector, 84.9% of all new jobs created in India (14.6 million out of 17.2 million) between 2009-10 and 2011-12 have been contractual and, therefore, beyond the purview of labour laws regulations. Moreover, in terms of size of enterprises in industry and services sectors, about 66% of the firms engage less than 6 workers (Sanghi and Sensarma, 2014).

In the recent years, most of the new employments created were in the form of informal in nature. Typically, the workers employed in sectors like construction, manufacturing, etc. are migrant workers with little support systems and unable to form a union to get their basic rights and raise voices against exploitations. Thus, the large number of labourers engaged in the informal sector has no space for collective bargaining at present. The status of the disadvantaged sections of labourer is well captured in a recent report, India Labour and Employment Report (2014):

- **Over half the workers in India are self-employed**, largely with a poor asset-base, and around 30% are casual labourers seeking employment on a daily basis. About 18% of those employed are regular workers, and amongst them less than 8% have regular, full-time employment with social protection measures.
- **Education and vocational skills amongst informal labourers** are extremely low. Less than 30% of the workforce has completed secondary education or higher, and less than one-tenth have had vocational training, either formal or informal.
- **Disadvantaged social groups** such as Scheduled Castes (SCs), Scheduled Tribes (STs), and large sections of the Other Backward Classes (OBCs) are mostly concentrated in low-productivity sectors such as agriculture and construction and in low paying jobs as casual labourers and Muslims are concentrated in petty so-called low productive self-employment.
- **Women in general are disadvantaged** in the labour market. In addition to their low share in overall employment, greater proportions of them are engaged in low-productivity, low-income, insecure jobs in farms, and in the unorganized and informal sectors as compared to men.
- **Labour market inequalities** are large and disparities and inequalities have generally increased. The most striking is the disparity between the regular/casual and organized/unorganized sector workers: the average daily earnings of a casual worker stood at Rs.138 in rural areas and Rs.173 in urban areas in 2011-12, and that of a regular worker at Rs. 298 in rural areas and Rs.445 in urban areas, while that of a central public sector enterprise employee was Rs.2, 005 per day. And, of course, the public sector employee has many other benefits as well as a secure job. Thus, a rural casual worker earned less than 7% of the salary of a public-sector employee.

Against the above background, it would be interesting to look at the proposed labour law reforms of the NDA government as well as some State governments like Rajasthan and Haryana. The NDA government has been

initiating measures towards a more business friendly regime. Recently, the Union Cabinet approved a set of proposal for amendments to the labour laws such as (1) Factories' Act, 1948, (2) the Apprenticeship Act, 1961 and (3) the Labour Laws (Exemption from Furnishing Returns and Maintaining Registers by Certain Establishments) Act, 1988. The union Labour Ministry has already notified for more flexible working system for oil rig workers in early July, 2014. On 7th August, 2014, the NDA government has already introduced two important labour laws in Parliament in the Lok Sabha - (1) and (2). The proposed major amendments are:

- **Under the Factories Act,** around 54 amendments are proposed including increasing the limit of overtime for workers from 50 hours per quarter to 100 hours per quarter; and improving the safety of workers and lifting relaxations on night shifts for women in factories provided adequate safety and transport measures are ensured. The proposed amendments are also aimed to prohibit pregnant women and persons with disabilities from being assigned to machinery-in-motion and reducing the eligibility for entitlement of annual leave-with-wages to 90 days from the current 240 days.
- **Under the Apprenticeship Act**, the amendments are aimed to include more new courses/trades like IT-enabled services, etc. allowing more employers to participate in training and employment of workers. Contractual workers, daily workers, agency workers and casual workers are proposed to come under this Act. Industry will also be allowed to undertake new courses (other than designated trades) which are demand based. Small industries are also aimed to allow engage with aggregate apprentices through approved third parties, and also to outsource basic training. Establishments operating in four or more States will be taken into the fold of Central authorities for easy interface, etc.
- **Under the Labour Laws (Exemption from Furnishing Returns and Maintaining Registers by Certain Establishments) Act**, the proposals are aimed to exempt firms employing up to 40 workers from complying with labour law regulations. These firms will now also be allowed to file a combined compliance report for 16 labour laws, an increase from the current 9. In addition, the definition of small establishments has also been proposed to be changed to firms hiring up to 40 employees, against 10 currently.

State Governments

Recently, both the Rajasthan and the Haryana governments have initiated proposals to make amendments to the key labour laws. Under the Indian constitution, the subject of labour is under the Concurrent List wherein both the union government and the state governments are allowed to make new laws and policies or amend the existing laws. The Rajasthan government aims to reform labour laws by taking advantage of Article 254 (2) of the Constitution, which allows states to enact laws on concurrent list subjects that do not conform to Central legislation as long as the president assents to such laws.

(1) ***Rajasthan*:** The Rajasthan government has initiated to bring out amendments to the labour laws. The state has proposed amendments in four labour laws such as the Industrial Disputes Act, Contract Labour Act, the Factories Act and the Apprenticeship Act. Towards end of July, 2014, the legislative Assembly of Rajasthan had passed all three amendments Bills amending important labour laws. The following are the key changes proposed under the three labour laws:

- **Under the Industrial Disputes Act, 1947**, government permission will not be required for retrenchment of up to 300 workers. The Act, as it stands now, allows retrenchment of up to only 100 workers. The Rajasthan Cabinet has also introduced a three-year time limit for raising disputes and increased the percentage of workers needed for registration as a representative union from 15% to 30%.
- **Under the Contract Labour Act, 1970**, the amendments raise the applicability of the Act to companies with more than 50 workers from the current 20.
- **Under the Factories Act, 1948** currently applicable to premises with more than 10 workers with power and 20 without power, the amendments raise these numbers to 20 and 40, respectively.
- **Under the Apprenticeship Act, 1961,** amendments are proposed for a third-party training provider, along with easing the rules to add more trades/courses. Through the amendments the state aims to address the issue of skill development for labour force for enhancing their employability.

***(2) Haryana*:** Recently, the Labour Minister of Haryana government had said that the state government proposes to bring amendments to the key labours laws such as the Industrial Disputes Act, the Factories Act and the Contract Labour Act, to bring them in sync with contemporary trends.

Major Concerns

The NDA government has completely unilaterally bypassed the concerns of large sections of workers and labourers who are in the informal sector economy. The serious concerns have been raised from different quarters on both the NDA government as well as government of Rajasthan on their move to amendment the key labour laws. Many oppose the proposed amendments to the labour laws. The RSS-affiliated Bharatiya Mazdoor Sangh (BMS) has taken the lead in opposing the NDA government's proposed labour laws reforms. Recently, about 11 trade unions including BMS, INTUC, AITUC, HMS, CITU, AIUTUC, TUCC, SEWA, AICCTU, UTUC and LPF denounced the "retrograde move" of the government and urged the central government to "consult and honour the views of the trade unions before placing these amendments in Parliament" (Mohua Chatterjee, 2014).

The International Labour Organization's (ILO) decent work team for South Asia and country office for India raised issues on the proposed labour laws reforms of the NDA government and Rajasthan state government. The ILO-India officials said that bringing labour law reforms in haste is not a good idea. According to ILO the main issue is that the changes in labour laws should be done after holding extensive tripartite consultations (ILO, 2014). The Rajasthan Assembly has passed four labour laws amendment Bills recently, the ILO-India officials have said that "Rushing through such things is a bad idea. It can lead to labour unrest. Investment is a short-sighted way of approaching such reforms." Further, the ILO officials said that "It is true that the labour laws are outdated, but the industries do not comply with the existing norms (either). They should comply before demanding labour law restructuring" (Somesh Jha, 2014).

Conclusion

The proposed labour law reforms both by the NDA government as well as Rajasthan state government are surely in hurry without the due process of stakeholders consultations. As a consequence, the proposed amendments to the key labour laws will affect the poor labourers who are in unorganised sector. Particularly, the Rajasthan government's move to amend the Industrial Disputes Act would be more harmful to workers as it will allow more firms for retrenchment of workers without permission from government. India is also committed to the ILO's 2002 International Labour Conference Resolution and Conclusions on Decent Work and the Informal Economy under which the broad continuum of working arrangements for informal workers in the informal economy is agreed. However, the proposed amendments in the Apprenticeship Act appear that the new changes are proposed to increase the capacity for apprentice training as part of enhancing skill development efforts for better employability of youth.

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In Defence of the Right to Fair Compensation and Transparency in land Acquisition, Rehabilitation and Resettlement Act, 2013

The post liberalization Indian economic boom continues to create a voracious appetite for space to meet the demands of industrialization, infrastructure building, urban expansion and resource extraction.[i] The emerging modern market completely depends on land resources, but Asian countries like India and China are facing a scarcity of land, specifically non-agricultural land. Indeed, land acquisition has become a most vexing problem for policymakers in India. Names like Singur, Nandigram, Kalinganagar, Jaitapur, and Bhatta Parsaul have entered the human lexicon as poignant metaphors of social conflict. The Left Front, which built a remarkable political hegemony in West Bengal largely on the basis of Operation Barga and land reforms, has been brought to its knees after a botched attempt at wresting a thousand acres for a car factory, illustrating how land issues have seismic potential in our political landscape. For those whose lands were acquired and people whose livelihoods depended on the lands acquired, a great human tragedy has unfolded. Independent estimates place the number of people displaced following development projects in India since independence at 60 million. Only a third of these people were resettled in a planned manner.[ii]

In this context, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 offers a genuine protection and expansion of the rights and interests of the poor and vulnerable - as seen in its decentralized, participatory and time-bound approach, its emphasis on a just and informed and transparent process, inclusion of hitherto ignored aspects like rehabilitation and resettlement, comprehensive compensation package, ensuring improvement in standards of living of the all affected. In view of the recent criticisms from the right wing, several other political parties and the industrial lobby, there is need to protect the said Act from any amendments that would fundamentally alter its democratic principles and its ideal of social justice. At the heart of the matter, the question is not that of higher GDP on the back of the neoliberal political agenda but rather how can broad based development be achieved, keeping in mind the reality that growth effects are diffused through a political-economy of difference – that of class, caste, region etc.

It has been suggested that the consent clause of the 2013 Act has virtually halted the process of land acquisition, that the Act violates federal provisions of the Indian constitution and the process of acquisition outlined, including the social impact assessment (SIA) exercise, is too cumbersome and impractical. Is there any merit in these criticisms?

The Act requires consent of 80% of all land losers in case of acquisition by private companies and 70% in case of PPPs.[iii] This provision has been severely criticised for making land acquisition virtually impossible, for dissuading private investment and industrial development and consequently being anti-growth, anti-jobs and therefore anti-people. What is not being voiced enough is that these provisions have been introduced in light of the experience of the previous colonial legislation which gave draconian powers to the state without any safeguards against the abuse of this power or against acquisition.

Criticisms against the Act for being against the federal spirit do not hold ground. It should be noted that though land is a state subject, land acquisition is mentioned in the concurrent list. The new Act is explicit on active state participation in the process of acquisition. Furthermore, crucial decision-making powers pertaining to whether land should be acquired, purchased or leased; the extent to which multi-cropped irrigated land can be acquired; ensuring rehabilitation and resettlement; determination of compensation etc vest with the states. Clearly then, all efforts have been made to protect the federal principle.
The importance of SIA and public hearings is unquestionable. It allows for a dialogue amongst stake-holders, to establish who will be affected (individual or community), what will be consequences of acquisition for them, what is it that the affected want and moreover, SIA encourages participation, sharing of information, transparency and accountability. This mechanism is now being critiqued as a complex and time-consuming administrative hassle for it involves an initial socio-economic profiling of the area, multiple hearings at different levels, allows time for information dissemination at various stages of the acquisition process etc. However, it should be

highlighted here that the SIA exercise is time bound and the Act states that it has to be completed within six months. Removing or diluting this clause goes against the very grain of a just polity.

There are various other clauses regarding which changes have been sought. For example, one observation is that penalty provisions against civil servants in case of any misconduct are too severe. It should be remembered though that assigning responsibility for one's acts and holding them liable to them should not be considered as a negative feature, particularly given the way things work in this country. The comprehensive compensation package is seen as impractical, unsustainable and as substantially increasing the cost of land acquisition and making projects unviable. But for the first time, the interests and rights of the most vulnerable and marginalized sections of the Indian society have been protected and expanded. In India, land is not just a factor of production, a source of monetary income and employment; it is much more, land is an identity, and is an emotional and a social asset, the value of which cannot be gauged or is very difficult to be estimated only within economic and livelihood frames.

The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 was drafted and subjected to extensive public debate before being enacted. Now changes are being proposed to it without any substantive basis, without public discussion and dialogue amongst the stakeholders. The Act is pro-poor, pro-tribals and pro-farmers; and is seen as an important mechanism to counter Naxalism. In fact, this legislation provides an opportunity for wider reforms, for instance, digitisation of land records, in the arena of registry etc. It has been in operation for too short a duration to judge its performance and any unilateral top-down changes may well spark violence – the very anti-thesis of the new Act's objective. A briefing was organised by RGICS on 7th August 2014 to discuss the proposed amendment to this Act. The representatives of the farmer organisations such as Delhi Grameen Samaj, Bharatiya Kisan Union and Ekta Parishad have expressed their concerns to the over ten Members of Parliament. Shri. Jairam Ramesh, who was the main architect of this Act has an extensive discussion with the representatives. The Members of Parliament and farmer groups came to a consensus that a continuous nation-wide awareness campaign to mobilise support against the amendments is need of the hour to protect such well-crafted pro-poor revised Act, which came into existence after more than a century by replacing the colonial pro-corporate Act of 1897.

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Ishita Mehrotra

Forest Rights Act and Land Ownership in India

Introduction and Brief Background

Forests in India house over 250 million people whose home, hearth and livelihood comes from their forest dwellings for generations. However, forest dwellers in India are among the most marginalized and neglected sections of the society comprising primarily of tribal and Dalit communities whose livelihood depends on the forest produce of the land that they have used for centuries.

During the colonial era, the draconian Indian Forests Act (IFA) was enacted in 1927 divided the forest into the Reserved (no human activity allowed) and Protected (controlled human activity allowed) categories. Some felling was allowed in the latter category, but cultivation and livestock grazing were banned in both. This destroyed the traditional way of life.

The abolition of the Zamindari system exacerbated the situation as more common lands were nationalized and converted into protected forests. This was later amended and the traditional occupants were given titles based on the length of occupancy. This, however, gave disproportionate power to the Patwaris (keeper of land records),

and given the non-existence of ownership records corruption became rampant. The FRA sought to rectify this by providing a clear, transparent and environmentally friendly procedure for the resettlement of the people and displaced wildlife.

Source: The Hindu

However, the act is not serving the purpose with which it was enacted. Where is the implementation lagging behind? Would the current government keep up the Centre's commitment of equality in land ownership notwithstanding the differences political ideology with the previous UPA government? What exactly is the FRA? These are some of the issues examined in this essay.

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA) was enacted in 2006 to address the sever shortcomings of the 1927 act. The IFA resulted in the alienation of tribals and other forest dwellers. It is an act which protects the land ownership titles in the tribal belt of India and had been demanded for long to safeguard the interests of the most marginalized people of the country. However, the implementation record (including guaranteed land holdings under the act) has been poor.

Discrepancies in tribal forest land allocation and redistribution has also been at the centre of India's Left Wing insurgency in what is called the Red Corridor. Therefore, he 2006 act's importance multiplies in not only addressing the injustice done to the traditional forest dwellers over centuries, but also as a means to combat what has been called India's worst national security crisis.

The 2006 act was radically democratic in many ways as it acknowledged the historical injustices done to the forest dwelling communities and set a forward-looking path to correct those. There are twelve types of rights enlisted in the 2006 act to undo the damage that has already been done and these include rights to land occupation, forest produce, both timber and non-timber, management of community forests and home and hearth. It also empowers and makes accountable the traditional forest dwellers to protect the biodiversity, water resources and other resources of the forest as well as catchment areas and seeks to establish a community based forest administration in the country with the Gram Sabhas at the helm of affairs. The land ownership titles will be ascertained to the maximum limit of 4 ha per person by a committee comprising the District Collector, the Divisional Forest Officer and the Superintendent of Police.

There are many misconceptions surrounding the act for which it has come under criticism. Many people believe that the FRA is meant to redistribute land up to a maximum ceiling of 4 hectares per person. However, the truth is that this act is not a land redistribution act and does not empower anyone to do so. On the issue of land, the FRA requires the state and central government to legally recognise the lands as revenue lands on which forest dwellers have been carrying out farming prior to 13 December 2005.

For non-Scheduled Tribes (STs), this recognition comes after proving that they have been farming on the land in question for the past 75 years. As per the FRA, the traditional forest dwellers and STs will only receive rights to 'land under their occupation' and no more, for the time specified up to a maximum of 4 hectares per person. Any claims over the stipulated 4 hectares will not be entertained. No new land distribution will take place and the titles given as per the act cannot be sold or transferred, except through family hierarchy. It is not a welfare scheme and deals with defining the forest land and its occupation.

In 2012, then Minister for Tribal Affairs, Mr. Kishore Chand Deo had written a letter to the CM's of states, urging them to implement the act properly. However, despite all the efforts by the previous government and civil society activists, the implementation record of the act has remained poor. Moreover, widespread corruption which still exists in the process of implementation has hindered the powers of the act substantially.

Critics of the FRA say it was enacted by the government for privatizing natural resources and making vote banks out of the forest dwellers. But the basic principles of the act were largely misinterpreted and contorted based on state-wise implementation record.

Conclusion

The enactment of the 2006 FRA is an example of inclusive, democratic and enabling legislation which came in a favorable pro-poor political environment. However, the implementation rests with local authorities and state governments where the failure is stark. According to Ministry of Tribal Affairs' report from January 2014, 36, 54,420 claims have been filed and 14, 18,078 titles have been distributed. Further, 15,864 titles were ready for distribution. A total of 31, 06,690 claims have been disposed of (85.01%). Unfortunately, there are no records of details of the amount of land under each title. Whether these gains for the forest dwellers are consolidated in forms of actual substantive rights and access remains an open question. There is also no readily available record of uses for such land. Various non-government report states that this number is grossly inflated and titles to a full authorized 4 ha per person are rare in all the states.

There are also several cases on encroachment still pending in the courts of different states wherein, lack of proof of occupation has led to a traditional forest dweller to be incarcerated as a squatter.

The role of Gram Sabhas has also not been exemplified under the act yet on ground. Moreover, mining activities on traditional forest land in some of the states by corporate houses is still going unnoticed.

In spirit, this act is phenomenal but the leakages in implementation reduce it to the status of just another act which is supposed to work but isn't.

The current government needs to look beyond political differences and keenly push for a better implementation of the FRA under due process. This is one of the landmark legislations which follow the democratic principles enshrined by our founding fathers in our constitution.

Medha Chaturvedi

Is Abrogating Article 370 a Mistake?

India is a country which embraced Federalism at the time of independence from Colonial rule with many nations existing within its ambit. A noteworthy instance in acknowledging the Federal polity in India is that of Jammu and Kashmir and Article 370 of the constitution which grants the state an autonomous status. Since the BJP-led government assumed office at the Centre in May 2014, the idea of abrogation of this article has been gaining steam. However, this move may jeopardize India's already fragile relations with the state of Jammu and Kashmir and may lead to a forced Balkanisation of the state and defeat the idea of Cooperative Federalism with which article 370 was enacted.

On July 11, 2014, the Supreme Court of India dismissed a petition challenging the constitutional validity of Article 370. A bench of Chief Justice RM Lodha, Justice Pinaki Chandra Ghose and Justice Rohinton Fali Nariman dismissed the plea by Kumari Vijayalakshmi Jha, who argued that the article was a temporary provision that lapsed with the dissolution of the state's constituent assembly in 1957.

However, the impact that this proposed move would have on the Indian Federal structure are lost in the din of political rhetoric. Why has this article been the most debated one among all the provisions of the Indian constitution? What is the BJP's interest in abrogating it and what impact would this action have on not only the people of Jammu and Kashmir, but also India as a whole? These are some of the aspects explored in this essay.

Source: rediff.com

Brief History

At the time of independence, J&K was a Muslim majority state with a Hindu ruler, Raja Hari Singh. The state was a bone of contention between then newly formed Pakistan and India. Being a Muslim state, Pakistan demanded that the state be a part of that country while upholding the ideals of secularism, India staked claim at it.

There was no provision in the British approved partition plan which stated upfront that the Hindu Princely state must accede to India and the Muslim states to Pakistan. The accession of Junagadh was an example of the ambiguity consequent to this. Jinnah accepted the accession of Junagadh to Pakistan in 1947 despite it being predominantly a Hindu province and later a people's movement revoked that decision and Junagadh became a part of India.

Article 370 was a result of a refusal by the Hindu King Raja Hari Singh of Jammu and Kashmir to join either India or Pakistan after partition. In order to retain sovereignty of the state, despite Pakistan's claim over it owing to a Muslim majority in line with the two-nation theory, led to the state's monarch siding with the Indian side under special circumstances. All the other princely states had chosen sides among the two countries, however, owing to a political movement under the leadership of Sheikh Abdullah (Father of Farooque Abdullah; later formed the National Conference), who was opposed to merging with Pakistan, J&K was granted a special status. In 1947, coming under attack from NWFP tribes, an Instrument of Accession was signed between Hari Singh and India which agreed upon maintaining the state's sovereignty unlike other princely states. What this meant in effect was that other than specific matters including defence, communications and foreign policy, the Indian Parliament would have to seek permission from J&K State Assembly before implementing any laws in the state. The article was accepted in the Constituent Assembly in 1947 and was adopted in the Constitution in October 1949.

In 1949, PM Nehru asked Abdullah, who was appointed as the PM of J&K to prepare a draft of the article (then called Draft Article 306-A) to be appended to the Constitution in consultation with Dr. Ambedkar. The then Law Minister Dr. Ambedkar had refused to draft the article on the grounds that while Abdullah wanted India to defend and develop Kashmir and that Kashmiris have equal rights all over India, the same rights must not apply to citizens from other parts of the country in Kashmir. He felt that it was a betrayal of the national interest. On his refusal, the article was eventually drafted by Gopalaswami Ayengar who was a minister without a portfolio in the first Cabinet of India and a former Diwan of Hari Singh. After being introduced in the Constituent Assembly, the draft Article 306-A faced extensive opposition, with only Mualana Azad standing in its favour. How-

ever, with Pandit Nehru's backing, it was adopted and implemented, initially as a temporary arrangement, with hopes of a full integration in time to come.

The idea of a Plebiscite in J&K to uphold the people's voice of the state in framing the state's constitution was taken up briefly in the beginning, being discarded eventually in 1949. The Constituent Assembly of J&K which was to be consulted for any Central Law to be implemented in the state was constituted in 1951 and dissolved in 1957 and in the absence of such a body, abrogation of the article 370 is simply unconstitutional.

Government's interest in revoking article 370

The BJP has indicated in the past that once in power, it would work on abrogating Article 370. Now that they have a government at the Centre, this seems like an impending reality. A junior Minister in the Prime Minister's Office, Jitendra Singh recently said in a statement "We are in the process of repealing Article 370 and are in talks with the stakeholders," starting fresh speculations on the issue. Also veteran BJP leader L K Advani, in his blog, called for the same in order to facilitate Kashmir's further integration into the country. This blog was a tribute to the founder of Jan Sangh, Shyama Prasad Mukherjee who died in a jail in J&K in 1953 while leading agitation against the article.

The reason for BJP to want the article gone is rooted in the history of how it came about. Being a Right-wing Hindu Nationalist Party, the BJP maintains that after the implementation of Article 370 in J&K, Sheikh Abdullah was appointed the Prime Minister of the state. He brought about reforms in the state, especially pertaining to land which adversely affected the Kashmiri Hindus (especially the upper caste Pandits) and led to them being relegated in their social standing. The land-owning Hindu community, as a consequence to the law limiting maximum land individual holding of 22.75 acres, lost their land during the redistribution process where any surplus land holdings was distributed among the peasants who worked on it, mostly Kashmiri Muslims. This led to the idea of land redistribution mistaken for communalism.

Moreover, since 1950, on several occasions, various provisions of Article 370 have been overruled by Constitutional orders. As it stands now, out of 395 total articles in the Indian Constitution, 135 are alm0st identical to that of the J&K Constitution and 260 articles have been applied to J&K making the article virtually irrelevant. Although, officially, J&K still enjoys an autonomous status, in reality, the state is farther away from autonomy now than it was at the time of independence.

Unfortunately, the larger implications of scrapping this legislation would impact India's relations with J&K, a state which agreed to be a part of the country on the sole condition of retaining its autonomy. Any attempts at abrogating this article, would therefore, fuel the already-existent mass resentment against the Centre. The article, as it is, hasn't been followed through in entirety, however, scrapping it completely would lead to a further trust deficit in the people of the sate towards the Union. For the BJP too, to move past the labels of being a majority-appeasing, radical Hindu party, it is important to drop this issue. Moreover, PM Modi, in his Republic Day message this year as the Chief Minister of Gujarat had emphasized on the critical importance of a vibrant and functional federal structure in India as the Centre may not always be able to do justice to the potential and needs of various states. Repealing article 370 wouldn't uphold the same vibrant and functional federal structure he spoke about.

Abrogating the article a mistake

There is a widespread opposition in the state against speculations of the Centre abrogating article 370 with the current government being politically opposed by both, the separatists and the NC.

Article 370 grants the state of J&K special provisions with regards to its political structure. This article, according to the constitution, can only be abrogated or modified by the President with the nod from the state government and an approval by the state's constituent assembly. By this definition, constitutionally, the article cannot be abrogated because J&K's constituent assembly was dissolved in 1957 after the accession of the state was deemed complete and ceases to exist now.

Since 1956, when the Indian constitution was amended at Bakshi Ghulam Mohammad's insistence, J&K has slowly but steadily been losing the powers it was guaranteed under section 370. In 1957, the Delhi Amendment

was applied to the state, abolishing the Sadr-e-Riyasat and PM position in J&K, replacing them with Governor and CM. There started the complete dilution of autonomy.

The provisions of the article have time and again been ignored by respective central governments in India and consequently, it has already been diluted to an extent of only remaining as a symbolic right to the people of J&K. However, abrogating it completely would send out a message to the Kashmiri population that the Centre has failed to recognize the state's autonomy which was the essential condition at the time of accession. In an environment of an already high level of distrust in Kashmiris towards the Indian state, this move could be seen as an attempt to completely disregard their voice in the constitutional process, that they have no right over their own political fate.

Essentially, the problem is in the perception of how the article is seen by the central government and the state. The state sees it as a constitutional right to autonomy and self governance while the Centre sees it as an extended temporary provision which has run its course.

In 1949, India had taken the matter to the UN and thereafter, several resolutions were passed relating to it, most of which concluded that bilateral negotiations between India and Pakistan would be the only way to solve this conundrum. Despite that, there hasn't been much said about the issue by either of the countries openly in the recent times, although, tensions remain on the surface.

There have been attempts within India to solve the tensions between the Centre and the state leadership, Beg-Parthasarthy Accord of 1975 being one of them. In 2010 also, a special group headed by Justice Saghir was sent by then Prime Minister Manmohan Singh to negotiate the terms of article 370 with the state. However, none of the efforts by any of the governments has yielded any concrete positive results.

If this article is abrogated, the next step would be the Balkanisation of the state into Jammu, Kashmir and Ladakh regions at the behest of the Centre. History proves that such a move can have only a detrimental impact on the people of such states. States emerging from erstwhile Yugoslavia serve as a reminder to this grim reality.

Conclusion

The call for abrogation is also indicative of a complete misunderstanding of Indian federalism which is founded in the theory of unequal federalism. The constitution has abundant provisions providing special status to various other states too. Then there are the Fifth and the Sixth Schedule for the Tribal and Northeastern states. Would these be revoked too in time to come? How then would the centre protect the rights of those who have neither sufficient representation nor, adequate opportunities for progress? This unequal but special provision guarantee these protections to the most marginalized and neglected communities in India, revoking their rights would result in a sure descent into a similar undemocratic structure which our founding fathers opposed and fought against.

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Medha Chaturvedi

Juvenile Justice: Need for Reformation, not Retribution

Source: The Free Child Project

The Juvenile Justice (Care and Protection of Children) Bill, 2014 was introduced in the Lok Sabha on August 12, 2014 by the Ministry of Women and Child Development. This Bill seeks to repeal and re-enact, the Juvenile Justice (Care and Protection of Children) Act, 2000. If passed by the Parliament, the new law will empower Juvenile Justice Boards to decide if a juvenile above 16 years, involved in crimes like rape, would be tried in an adult court. Considering that in 2013, 66.6% of the juveniles apprehended under IPC were in the age group 16-18 years, the law could potentially deny these adolescents their basic needs, care, protection and a chance at social re-integration. Given that the majority of juveniles apprehended under this law belong to the poorest and least educated backgrounds, the Bill would further marginalize a vulnerable segment, denying them a chance to escape the vicious cycle of poverty and crime.

In its rush to repeal the Juvenile Justice (Care and Protection of Children) Act, 2000, the government is bowing to the public demand for harsher punishment for minors convicted in cases such as the Nirbhaya gang-rape. For some time now, there has been outrage that minors involved in cases of serious crime are handed a three-year term in a reform home by the Juvenile Justice Board. A three year term in a 'Home' is seen as lenient and many believe that there should be a difference in the maximum punishment for heinous crimes such as rape and murder and others like theft or robbery. However, the public opinion is shaped by false media reporting which has highlighted exceptional cases and made them sound like the norm.

Further, the cases given prominence by the media overshadow the facts related to the juveniles in conflict with the law. For instance, in the Nirbhaya case, the juvenile justice board in its confidential order on August 31, 2013 deprecated the "media hype" over the minor's role in the said case. The board's order made it clear that in their testimonies, neither Nirbhaya nor her male friend singled out the juvenile as the person who had brutally assaulted her with a rod, resulting in her death. In fact the board asserted that the juvenile himself had been "brutalized" by the media portrayal of him as the most violent assailant of Nirbhaya.

Cases of violent crimes by juveniles are condemnable and under no circumstances pardonable, yet the proposed changes in the Juvenile Justice Bill come across as an emotional response to a complicated problem. The provision of trying juveniles over 16 years of age under the adult criminal system goes against the very basis of juvenile 'justice'. The stated objective of the Juvenile Justice Act, 2000 is a "child-friendly approach in the

adjudication and disposition of matters in the best interest of children and for their ultimate rehabilitation." Interestingly, the new Bill does away with the word 'ultimate', perhaps indicating that juvenile justice will no longer aim at rehabilitation as an end. Other provisions point to a retributive approach rather than the reformative approach, which has been the cornerstone of the juvenile justice system in India.

By punishing 16 to 18 year olds under the adult system, the Bill caters to the section of society that feels that 'If he rapes like an adult, he should be punished like an adult'. However, this negates the facts brought out by neuroscience and psychology. It is important to establish that while an adolescent may physically look like an adult and engage in adult actions, one cannot punish adolescents using the same yardstick as for adults. To quote eminent neuroscientist Laurence Steinberg, "I have argued that adolescents should be viewed as inherently less responsible than adults, and should be punished less harshly than adults, even when the crimes they are convicted of are identical", (Steinberg; 2013).

As neuroscience and psychology explain the structural and functional changes that occur during adolescence do not all take place at a uniform pace. However, if at all a line is to be drawn it is better to keep 18 as the age at which we consider an individual to be an adult. An individual in India who is 17 years and 364 days would not be given the right to vote, and similarly should not be tried under the adult criminal system.

All juveniles are equally entitled to proper care, protection and treatment meeting their developmental needs. No juvenile should be deprived of this protection simply because he or she happens to commit a crime for which the legislature has imposed a sentence of a particular duration or because the crime is considered to be "heinous". Such a policy would be violating the fundamental Right to Equality under the Constitution.

These provisions also violate India's obligations under the UN Convention on the Rights of the Child (UNCRC) and extrapolated by the Committee on the Rights of the Child (CRC). Through General Comment No. 10 on Children's rights in juvenile justice, the CRC strongly recommended that States Parties change their laws with a view to achieving a non-discriminatory full application of their juvenile justice rules to all persons under the age of 18 years.

Finally, if the objective of the new law is to safeguard society/ women, the proposals within the law are counterproductive. Juveniles transferred to the adult criminal justice system are far more likely to become hardened criminals and commit even more serious crimes. Studies in the US show that "the New York kids treated as adult criminals were rearrested faster, more often, and for more serious crimes, and more often were returned to prison" and that 80% of the juveniles who are released from adult prisons go on to commit more serious offences (Raha; 2013, Centre for Child and the Law; 2014). This will put society at a higher risk and increase the quantum of organized crime.

Understanding Juveniles and Crime in India

The move to enact the new law also ignores several facts related to juveniles and crime in India. It presumes that the juvenile crime rate has increased drastically in recent years. The data collected by the National Crime Records Bureau, however makes it amply clear that during 2003-2013, the percentage of juvenile crimes to total crimes has seen a miniscule increase from 1.0% to 1.2%.

Further, in the 'Statement of Objects and Reasons', the Bill states "…increasing cases of crimes committed by children in the age group of 16-18 years in recent years makes it evident that the current provisions and system under the Juvenile Justice (Care and Protection of Children) Act, 2000, are ill equipped to tackle child offenders in this age group. The data collected by the National Crime Records Bureau establishes that crimes by children in the age group of 16-18 years have increased especially in certain categories of heinous offences."

Table: Percentage of Rape and Murder by Juveniles to Total in India (2010- 2013)

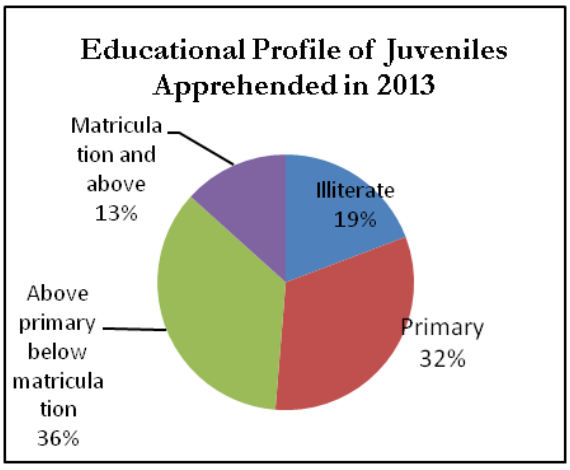
Year	Total Incidence of Rape	Rape by Juveniles (Total)	% Share of Juvenile Rapes to Total	Total Incidence of Murder	Murder by Juveniles (Total)	% Share of Juvenile Murders to Total
2010	22172	937	4.2	33335	847	2.5
2011	24206	1231	5.1	34305	1168	3.4
2012	24923	1316	5.3	34434	1281	3.7
2013	33707	2074	6.2	33201	1230	3.7

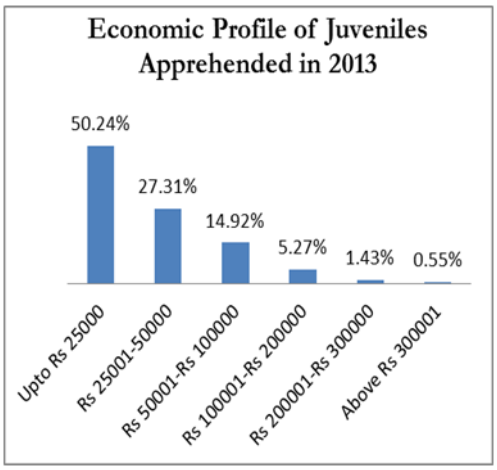
Source: National Crime Records Bureau, Ministry of Home Affairs, GOI

However, as the data from the National Crime Records Bureau shows, between 2010 and 2013, only 4% to 6% of the total rapes and 2% to 4% of total murders in India were committed by juveniles. In 2013, juveniles between 16 and 18 years apprehended for murder and rape constituted 2.17% and 3.5% of all juveniles apprehended for IPC crimes, revealing the inaccuracy of the picture put forward by the Bill.

The new law also disregards the background of the juveniles it is targeting. The socio-economic profile of juveniles apprehended under law shows that they hail from among the most deprived sections of our country.

Figure: Socio-economic Profile of Juveniles apprehended in 2013





Source: National Crime Records Bureau, Ministry of Home Affairs, GOI

In 2013, 32.14% of juveniles had primary-level education and 19.28% were illiterate. Together, they constitute 51.43% of juveniles apprehended for crimes under IPC and SLL. 50.24% juveniles had an annual family income of up to Rs 25,000 and 27.31% upto Rs 50,000. Taken together, 77.56% of juveniles apprehended have an annual family income below Rs 50,000. Given that almost all the juveniles convicted under the existing system come from the poorest and most marginalized sections of society (OBC, SC, ST), often without the support of a family or proper legal representation, it will be these adolescents who will be liable to trail under the adult criminal system. This is a segment of society that has already suffered on account of failure of the society and state to provide them with basic human rights such as adequate standards of health and sanitation, nutrition, education and economic opportunities during their growing years. A law affecting this section of the population must take into account that a deprived childhood is one of the main reasons behind rising juvenile crime.

In India, juveniles in conflict with law alleged to have commit 'serious' offences constitute a miniscule, but very vulnerable segment that require correctional and therapeutic treatment in order to reintegrate them into society and prevent further crime.

The proposed enactment of a new law which has been done in haste and without due consultation of key stake-holders across the country denies these adolescents their rights under the Indian Constitution, UN Convention on the Rights of the Child (UNCRC), and the principles of the existing juvenile justice system.

It is important that the Parliament consider strengthening the provisions of the existing juvenile system and re-form the implementation of the Juvenile Justice Act, 2000 before passing this Bill and condemning adolescents belonging to the poorest, least educated and most marginalized sections of the country.

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Divashri Mathur

Caste Atrocities in India: Time to Review the PoA Act, 1989

The constitutional commitment of equality, liberty, justice and dignity to all Indian citizens is the expression of our vision of building a nation without any discrimination including deep-rooted discrimination based on caste. In the past 68 years of independence, this commitment made in the Preamble has been translated into action through various public policies to abolish discrimination. Yet caste discrimination remains a widespread phenomenon throughout India. The cruelest outcome of caste discrimination against Dalits and Adivasis is the physical violence against them by socially advantaged caste groups in India. Recognizing such crimes and vulnerability of Dalits and Adivasis, the government of India enacted '**The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act' in 1989 (PoA Act)** to deter such violence and ensure justice and protection to them. However, its implementation remains very weak and the vulnerability of SCs and STs has barely improved. Dalit rights organizations and various other public institutions indicated towards non-implementation

of the law, in-effectiveness of law to deter commonly committed caste base atrocities, lack of statutory arrangements in the states, corruption in police system and influence of caste system in public institutions. Considering all these loopholes in the Act, it has been demanded by various stakeholders to amend this law in order to ensure higher protection of victims and prevent caste-based atrocities. UPA-II government in the end of its tenure brought an ordinance to amend the PoA Act in March 2014. The newly formed NDA government introduced 'The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Bill, 2014 in the Lok Sabha to replace the ordinance.

The Scheduled Castes (Dalits) and Scheduled Tribes (Adivasis) together accounts around one fourth of Indian population. Caste system deprives this entire section of population from enjoying a life as it is articulated in the Preamble of the Indian Constitution. Practices of the caste system such as untouchability and discrimination many times lead to the gross physical atrocities. The literature on atrocities shows that it is an all-India phenomenon legitimized by same principle of caste hierarchy. Government of India enacted The Untouchability (Offences) Act in 1955 to abolish practices of untouchability and protect rights of individual. Even after this legislative mechanism, frequency of atrocities against Dalits and Adivasis remain unchanged. Under the pressure from Dalit Members of Parliament (MPs), the Government of India started monitoring atrocities against SCs from 1974 and in the case of STs from 1981 onwards, with special focus on murder, rape, arson and grievous hurt.

The caste system is so deeply rooted in Indian society that mere monitoring of atrocities and enacting a law to abolish untouchability did not result into betterment of Adivasis and Dalits. The socially and culturally legitimized caste system leads to the complex manifestations such as discrimination, untouchability, atrocity on vulnerable sections of the society. The enactment of PoA Act in 1989 as a special law recognized complexity of caste base atrocities and higher vulnerability of victims. This special law treats various IPC and other offences against STs and SCs by any non ST and SC member in a different manner. It prescribes stronger punishment and provides protection to the victims. The Act states that, "despite various measures to improve the socio-economic conditions of SCs and STs, they remain vulnerable. They are denied a number of civil rights; they are subjected to various offences, indignities, humiliations and harassment. They have, in several brutal incidents, been deprived of their life and property. Serious atrocities are committed against them for various historical, social and economic reasons [i]."

Implementation of the Act

During two decades of its implementation the PoA Act ensured justice, protection and rehabilitation for thousands of victims of caste atrocities. . It also helped to generate awareness around basic human rights. Dalits and Adivasis have utilized this law to assert their rights and due share in society. However, various obstacles have been identified in its smooth implementation and delivering justice to the victims. According to a NHRC report on Status of Implementation of SCs and STs (Prevention of Atrocities) Act, 1989, police resort to various machinations to discourage SCs/STs from registering cases, to dilute the seriousness of the violence and to shield the accused persons from arrest and prosecution. FIRs are often registered under the Protection of Civil Right Act and IPC provision, which attract lesser punishment than PoA Act provision for the same offence.

The National Coalition for Strengthening SC & ST Prevention of Atrocity Act (a network of civil society organization and Dalit activists) identified following major deficiencies of the Act and its implementation [ii]:

- Under reporting of the cases under the Act and deterred from making complaints of atrocities.
- Deliberately not registering cases under appropriate sections of the Act.
- Delay in filing charge sheet
- Not arresting accused and the ones who are arrested are invariably released on bail.
- Filing false and counter cases against Dalit victims by accused.
- Compensation prescribed under the Act 16 is invariably not paid.
- Victims have no access to legal aid.
- Non-implementation of statutory provisions in various States under the Act and Rule, 1995.

According to the data of Ministry of Social Justice and Empowerment, majority of states do not fulfill minimum statutory provisions as per the Act, 1989 and Rules, 1995. Following table shows the status of non-implementation of the provisions of SCs and STs (PoA) Act, 1989 and Rules 1995 by State Governments.

Provisions	States implemented	States not implemented
Rule 3-Precautionary and Preventive Measures	11	23
Rule 8-SC/ST Protection Cell -	17	17
Rule 9-Nodal Officer	29	5
Rule 10-Special Officer	14	20
Rule 15 (1)-Contingency Plan by State Government	9	25
Rule 16-State Level Vigilance and Monitoring Committee	21	13
Rule 17- District Level Vigilance and Monitoring Committee	21	13
Section 14 Special Courts	9	25

Source: Reports of Ministry of Social Justice Empowerment

Although there is provision in the PoA Act for the constitution of Special Courts to expeditiously try atrocity cases, in reality what SCs/STs experience is a huge pendency of their cases before the trial courts. Moreover, the conviction rate is very low. In fact, the conviction rate under the PoA Act is found to be much lower than in cases booked under IPC [iii]. According to the NCRB data, in 2013 the average conviction rate for crimes against Scheduled Castes and Scheduled Tribes stood at 23.8% and 16.4% respectively as compared to overall conviction rate of 40.2% relating to IPC cases and 90.9% relating to SLL (Special and Local Law) cases. The processing of reported cases for investigation and trail is very slow. According to the NCRB data, 35645 cases are pending in different courts for trial. Large numbers of cases are pending in States such as Uttar Pradesh, Bihar, Odisha, Gujarat and Karnataka.

The National Advisory Council (NAC) during UPA government reviewed the provisions of law and cases of atrocities and found that certain forms of atrocities, though well documented, are not covered by the Act. NAC recommended for the incorporation of various IPC offences and other commonly committed offences under the perview of this law to ensure wider protection to the victims of caste atrocities. The National Commission for Scheduled Castes (NCSC) and Justice Punnaiah Commission critically examined deficiencies of the Act and has suggested various amendments to the Act. Human rights organizations have also highlighted various gaps in the enforcement of the Act and Rules. Ministry of Social Justice and Empowerment and Ministry of Home Affairs have issued various advisories to State governments to fill the gaps in the enforcement.

Status of Atrocities:

The National Crime Record Bureau (NCRB) data further exposes the poor implementation of the Act and its minimal impact in effectively dealing with caste based atrocities. The data reveals that the number and frequency of crime against SCs and STs are continuously increasing. The prevalent atrocities against SCs and STs includes incidents such as making SCs eat human excreta, and subjecting both SCs and STs to physical assaults, grievous hurt, arson, mass killings and rapes of SC/ST women, etc. Although the National Crime Records Bureau (NCRB) provides useful data that reveal the extent of atrocities committed against the SCs/STs, these data do not fully reflect the ground reality as most of the cases go unreported due to reluctance by police to register atrocity cases for various reasons. One also finds caste bias and corruption among the police force preventing registration and investigation of cases. [iv]

Even after low rate of reporting of crime under PoA Act, incidences of crime under this Act has increased from 11602 incidences in 2008 to 13975 incidences in 2013. The incidences of rape have shockingly increased from 1457 in 2008 to 2073 in 2013 (an increase of 42.27%). There has been no mitigation with annual average of crimes registered against SCs/ST standing at 39408 and daily average being 108.

Proposed Amendments in PoA Act, 1989:

The literature and empirical data on caste atrocities reveals that it made nominal impact in the lives of SCs and STs. However, various assessment of the law reveals that it has created a sense of security and protection among the victims of the caste atrocity. Dalit and Adivasi victims have used it as a tool to assert their basic rights and combat with wrong social and cultural practices. The current situation of atrocities and status of cases pending in police station and in courts led stakeholder to advocate for amendment in the PoA Act, 1989.

The Scheduled Castes and The Scheduled Tribes (Prevention of Atrocities) Amendment Bill, 2014 introduced in the Lok Sabha on July 16, 2014 that replaces ordinance enacted by UPA government in March 2014 represents the consensus of stakeholders to amend the law for better results.

The amendment Bill proposes substantial changes in the chapter on 'Offences of Atrocities' (Chapter-II) of the Principal Act. The proposed amendments attempts to increase number of IPC offences under the preview of this act. It also recognizes commonly practiced action in society to insult and harm dignity of person from SC and ST community as an offence. **These offences are garlanding with footwear, compelling to dispose or carry human or animal carcasses, manual scavenging, attempting to promote feeling of ill-will against SCs or STs, imposing or threatening a social or economic boycott. The amendments in this chapter further specify duties of public servant in detail and prescribe punishment in case of any neglect of duty by the public servant. The common duties of public servant includes** registration of FIR, furnishing a copy of information recorded by the informant in police station, to record statements of victims or witnesses, conduct investigation, file charge sheet within six days and keep records of document.

Addressing issue of long pendency of cases and low conviction rate under the Act, the amendment Bill proposes constitution of Exclusive Special Court and Special Courts to dispose cases within given time-frame. The provision in the bill ensures adequate number of courts so that every case can be disposed within the period of two months from the date of filling of the charge sheet. The bill has inserted a new chapter namely **'Chapter IVA' in the principal Act, that describes the rights of victims and witnesses** in detail. Some of the crucial rights of victims and witnesses are as follows:

- Right of victims, their dependents and witnesses to access state's support for their protection against any kind of violence, threats, coercion, inducement and intimidation.
- Right of victims to access special support from government, that arises because of their age, gender, educational disadvantage and poverty.
- Right of hearing views of victims at any proceeding under this Act in respect of bail, discharge, release, parole, conviction or sentence of an accused.
- Right of victims, their dependents, informants and witnesses to access facilities of relocation, rehabilitation and maintenance during investigation, inquiry and trail of the case.
- Right to access information about trial, enquiry and trial such as recorded FIR and provision of laws and allied schemes of relief for victims, their relatives.
- Right to access relief in cash or kind.
- Right of atrocity victims and their dependents to take assistance from Non-Government Organizations, social workers and advocates.

Soon after the introduction of the amendment Bill in the Parliament, the Lok Sabha Speaker referred the Bill to the Parliamentary standing committee for further deliberation.

Conclusion:

The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Bill, 2014 introduced in budget session 2014-15 replaces ordinance brought in by UPA-II government in March 2014. The proposed amendments in the principal act comprehensively addresses issues of non-implementation, in-effectiveness and number of loopholes in the existing law as highlighted by various human rights organizations, Dalit activists and public institutions. The amendments in the Act will ensure wider protection and timely justice to the victims of caste atrocities. It has already been delayed for so many reasons, but now it is up to the Parliament and political

parties to understand the urgency of the amendment Bill to provide relief to the SCs and STs who constitute almost one forth of Indian population.

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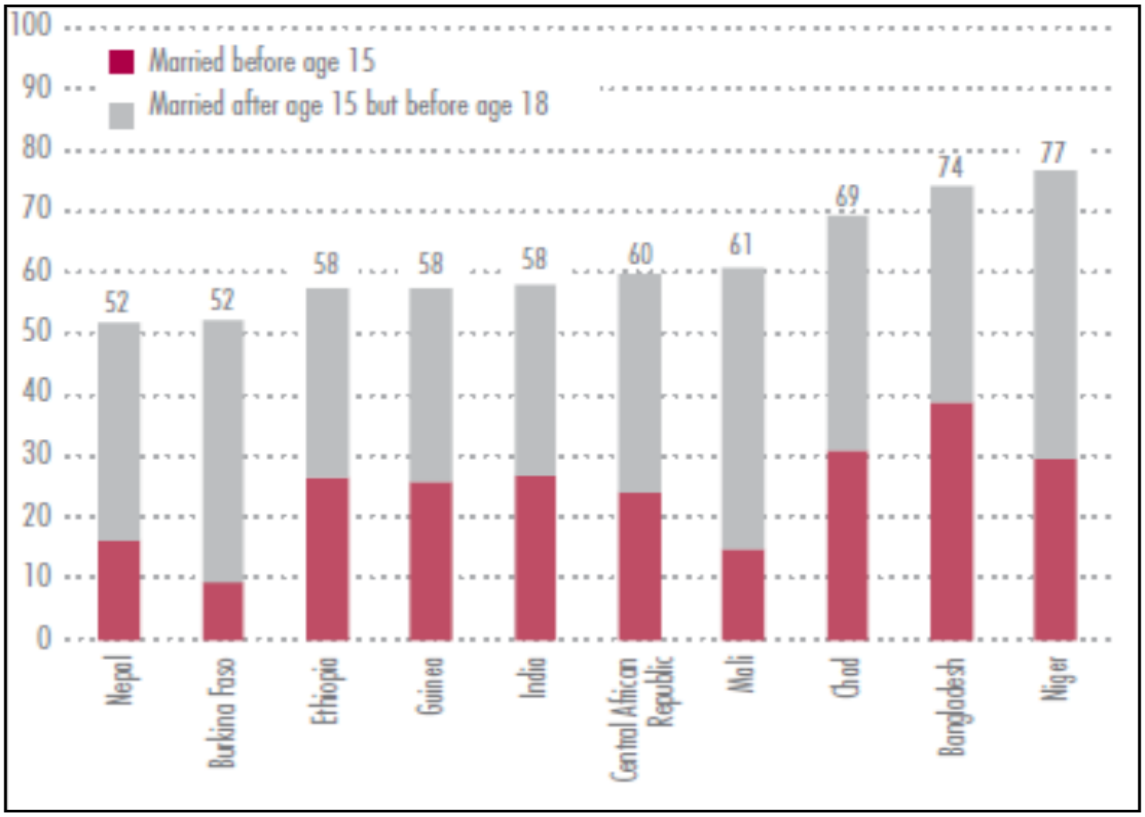
Jeet Singh

भारत में बाल-विवाह की समस्या

स्रोत : द हिंदु

बाल-विवाह दक्षिण एशियाई देशों और सब-सहारा अफ्रीका में सामान्य तौर पर चलन में रहे हैं। भारत में बाल विवाह का प्रचलन आज भी जारी है। कई समुदायों में खास त्यौहारों और तीजों पर इसके सार्वजनिक आयोजन होते हैं। भारत के ग्रामीण क्षेत्रों खास तौर पर राजस्थान, मध्यप्रदेश, उत्तरप्रदेश, बिहार, हिमाचल प्रदेश, आंध्रप्रदेश, पश्चिम बंगाल, हरियाणा आदि में इसका प्रचलन बना हुआ है। फ्रंटलाइन में प्रकाशित एक रिपोर्ट के अनुसार केरल जैसे राज्य में जहां बाल विवाह प्रचलित नहीं था, वहां भी खास तौर पर मुस्लिम समुदाय में बाल-विवाह के मामले देखे गए हैं। हालांकि लेख में एक अन्य संदर्भ का उल्लेख है जिसमें कहा गया है कि केरल में भी यह प्रचलित रहा है लेकिन इसके लिए कुछ खास परिस्थितियां होती थीं। सामान्यतया यदि कोई लड़की अनाथ है तो उसके भविष्य की सुरक्षा के नाम पर कम उम्र में विवाह कर दिया जाता था। अलग-अलग राज्यों और समुदायों में बाल-विवाह के बहुत सारे कारण हो सकते हैं। लेकिन पितृसत्तात्मक समाज में लड़कियों के बारे में प्रचलित धारणाएं, रुढिवादिता, यौन हिंसा का डर, अशिक्षा, स्वास्थ्य संबंधी जागरुकताओं की कमी, धार्मिक परंपराए, सामाजिक चलन, अंधविश्वास, लैंगिक अनुपात, आर्थिक कारक सब मिलकर कम उम्र में शादी की समस्या को जन्म देते हैं। हालांकि भारत के प्राचीन समाज में बाल-विवाह के प्रचलन के कारणों की अधिक जानकारी उपलब्ध नहीं है। लेकिन यह स्पष्ट है कि भारत में बाल-विवाह उत्तर भारत के कुछ समुदायों में देश के अन्य भागों की तुलना में कहीं अधिक प्रचलित है।

बाल-विवाह की सर्वाधिक दर वाले दस देश



स्रोत : एंडिंग चाइल्ड मैरिज - प्रॉग्रेस एंड प्रॉस्पेक्टस, यूनीसेफ

भारत की आजादी से पहले 1929 में बाल विवाह निरोधक अधिनियम लाया गया था जिसे 1978 में संशोधित किया गया और विवाह के लिए पुरुष की उम्र न्यूनतम 21 और स्त्री की आयु 18 वर्ष निर्धारिति की गयी। बाल विवाह प्रथा रोकने के लिए राजस्थान, गुजरात, महाराष्ट्र, कर्नाटक, हिमाचल प्रदेश ने कानून पारित किए हैं। सरकार ने बाल विवाह निषेध कानून (PCMA) 2006 में लागू किया जिसमें बाल विवाह और इससे संबंधित विषयों को गंभीर माना गया है। 1 नवम्बर, 2007 से प्रभावी कानून के अनुसार -1. बच्चों का विवाह कराना एक अपराध माना जाएगा। 2. इस कानून के तहत लडकियों की शादी की उम्र 18 साल, और लडकों की शादी की उम्र 21 साल निर्धारित है। बाल विवाह निषेध कानून 2006 में वर्णित शादी की उम्र देश भर में सभी समुदायों पर समान रूप से लागू होगा, जबकि जम्मू एवं कश्मीर को अपवाद के तौर पर रखा गया है। केन्द्र सरकार और कई राज्यों हिमाचल, कर्नाटक, राजस्थान, त्रिपुरा, गोवा आदि में शादियों का पंजीकरण अनिवार्य किया गया है। इसके अतिरिक्त सरकारों द्वारा कई ऐसी योजनाओं की शुरुआत की गयी है ताकि लड़कियों के जन्म, सामाजिक उन्नति को प्रोत्साहित किया जा सके और लड़कियों की कम उम्र में शादी को रोका जा सके। हरियाणा सरकार की सशर्त नकद हस्तांतरण योजना *अपनी बेटी अपना धन* , *लाडली योजना* के जरिए भी सामाजिक दृष्टिकोण को बदलने का प्रयास किया जा रहा है। 2010 में महिला बाल-विकास विभाग, भारत सरकार ने 11-18 वर्ष की लड़कियों के लिए शिक्षा और अन्य सुनिश्चितता के लिए सबला योजना की शुरुआत की।

दक्षिण एशियाई देशों में बाल-विवाह को लेकर सेंटर फॉर रेप्रोडेक्टिव राइट्स की रिपोर्ट कहती है कि श्रीलंका बाल -विवाह की समस्या को हल करने में सबसे अधिक सफल रहा है। अभी 20- 24 वर्ष की महिलाओं में केवल 2 फीसद महिलाएं ऐसी है जिनकी शादी 15 वर्ष से पहले हुई है।

बाल-विवाह मूलत: बाल अधिकारों और मानव-अधिकारों का हनन है। लड़के- लड़कियों की जबरदस्ती शादी करने से उनके स्कूल छूट जाते हैं। यह देखा गया है कि भारत में लड़कियों के नामांकन की प्रतिशतता आमतौर पर माध्यमिक शिक्षा की तुलना में उच्च माध्यमिक में कम रही है। इसका अर्थ यह हो सकता है कि पढाई छोड़ने वाली लड़कियों में कुछ लड़कियों की कम उम्र में ही शादी कर दी जाती हो।

2012-13 में माध्यमिक और उच्च माध्यमिक शिक्षा में नामांकन संख्या

माध्यमिक			उच्च माध्यमिक		
लड़के	लड़कियां	कुल	लड़के	लड़कियां	कुल
42.48	41.27	41.9	23.97	23.47	23.73

स्रोत : हिंदुस्तान टाइम्स

बाल-विवाह से स्वास्थ्य संबंधी गंभीर खतरे यहां तक बढ जाते हैं कि कम उम्र में गर्भधारण से उनकी मौत तक हो जाती है। हालांकि स्वास्थ्य संबंधी उपायों के जरिए भारत में मातृ मृत्यु दर (गर्भ धारण और प्रति एक लाख बच्चों के जन्म के दौरान महिलाओं की मृत्यु) का आंकड़ा 2006 से 2009 के दौरान 254 से 212 तक आ गया। इसी तरह नवजात बच्चों की मृत्यु संख्या में भी गिरावट दर्ज की गयी है। प्रति एक हजार जीवित बच्चों के जन्म पर नवजात बच्चों की मृत्यु दर 2000 से 2009 के बीच 68 से 50 तक आ गयी है। लेकिन बाल-विवाह से होने वाले खतरे बने हुए हैं। कम उम्र की लड़कियां जिनकी शादी अधिक वय के पुरुषों के साथ होती है उनमें यौन जनित रोगों (STD) और एचआईवी / एडस की संभावना बनी रहती है। दूसरा इस तरह की शादियों में महिला की निर्णायक क्षमता प्रभावित होती है और ज्यादातर मामलों में पुरुष का मत ही निर्णायक बना रहता है।

बाल-विवाह की संस्कृति और प्रचलित लैंगिक धारणाओं को अभी भी बदल पाने में भारत को उतनी बड़ी सफलता नहीं मिली है। हम जानते हैं कि पितृसत्ता के अनगिनत रुपों ने बाल -विवाह समेत अन्य लैंगिक-विभेद के मुद्दों को बनाए रखा है। सरकार द्वारा कई कानून, स्वास्थ्य संबंधी योजना और जागरुकता अभियान चलाए जाने के बाद भी समस्या बनी हुई है। पंजीकृत शादियों के नियम को पूरी तरह से लागू नहीं किया जा सका है। यह देखा गया है कि बाल विवाह के बहुत सारे मामले कानून के दायरे में नहीं आ पाते हैं। कई बार स्थानीय प्रशासन इन मामलों को दर्ज नहीं करता है। यहां तक कि राजनीतिक वर्ग के लोग खास पर्वों पर होने वाली इन शादियों में सीमित राजनीतिक स्वार्थ के कारण शामिल भी होते रहे हैं।

बाल-विवाह निरोधक अधिनियम, 2006 के तहत दर्ज मामले

राज्य	2006	2007	2008	2009	2010	2011	2012
आंध्रप्रदेश	17	21	19	0	0	15	29
बिहार	2	8	8	0	8	0	16
छत्तीसगढ	5	4	5	2	2	5	2
गुजरात	12	14	23	0	14	13	14
हरियाणा	7	4	4	0	0	6	11
कर्नाटक	6	4	9	3	8	12	20
केरल	1	1	4	0	6	3	6
महाराष्ट्र	15	7	5	0	4	19	6
राजस्थान	1	3	3	0	2	5	10
प. बंगाल	6	9	6	0	0	25	43

सारिणी में अधिकाशंत : वे राज्य ही शामिल हैं जहां 2011- 2012 में अधिक मामले दर्ज किए गए हैं।

नीति-निर्माताओं को चाहिए कि पहले से मौजूद कानून को लागू करने, कानून में जरुरी सुधार करने, जागरुकता और स्वास्थ्य संबंधी कार्यक्रमों के अलावा लड़कियों को शिक्षा की सुनिश्चितता देनी चाहिए। संभव है कि इन प्रयासों के जरिए बाल-विवाह की समस्या का उन्मूलन किया जा सके।

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सोमप्रभ

भारत में किसानों की आत्महत्या : संक्षिप्त अवलोकन

1990 के दशक में पश्चिमी भारत से गरीबी और आर्थिक कमजोरी के कारण किसानों की आत्महत्या की रिपोर्टें प्रकाशित होना शुरू हुई थीं और यह अब तक थमी नहीं हैं। आर्थिक तंगी के चलते मुख्य रूप से महाराष्ट्र आंध्रप्रदेश, कर्नाटक, केरल, पंजाब, मध्यप्रदेश, छत्तीसगढ, राजस्थान, हरियाणा किसानों की आत्महत्या का केन्द्र बनते गए। आत्महत्या करने वाले किसानों में अधिकतर नकदी फसल की खेती करने वाले किसान थे। प्रमुख रूप से कपास, सूरजमुखी, मूंगफली और गन्ना आदि। अधिकांश नकदी फसलों को अधिक सिंचाई की

जरूरत होती है, लेकिन सिंचाई के कारगर उपायों के न होने के कारण किसानों पर आर्थिक संकट बढ़ा। नकदी फसल उगाने वाले किसानों की आर्थिक बदहाली के पीछे सूखे को प्रमुख कारणों में दिखाया गया है हालांकि यह देखा गया है कि जब सूखे के हालात नहीं रहे हैं तो भी किसानों की स्थिति में कोई खास बदलवा नहीं आया है। कर्ज, अति व्यवसायीकरण, फसल के लागत मूल्य में बढ़ोत्तरी, कीमतों में अस्थिरता, सिंचाई के तरीके और सरकारों की प्रभावी नीतिगत पहल के अभाव ने किसानों की आत्महत्या को बरकरार रखा है।

Source: rediff.com

एनसीआरबी (NCRB) द्वारा जारी किए गए 1995-2013 तक के आंकड़ों के अनुसार भारत में 2,96,438 किसान आत्महत्या कर चुके हैं। 2013 में भारत में किसानों की आत्महत्या की कुल संख्या 11,744 है। कृषि आधारित अर्थव्यवस्था वाले भारतीय राज्य में 70 प्रतिशत से अधिक आबादी गांवों में रहती है और खेती पर निर्भर है। ऐसे में निश्चित ही किसानों की आत्महत्या कृषि की समस्या और चुनौतियों को साथ मानवीय त्रासदी है।

वर्ष	आत्महत्या की संख्या				
	महाराष्ट्र	आंध्रप्रदेश	कर्नाटक	मध्यप्रदेश	भारत में आत्महत्या की कुल संख्या
1995	1083	1196	2490	1239	10720
1996	1981	1706	2011	1809	13729
1997	1917	1097	1832	2390	13622
1998	2409	1813	1883	2278	16015
1999	2423	1974	2379	2654	16082
2000	3022	1525	2630	2660	16603
2001	3536	1509	2505	2824	16415
2002	3695	1896	2340	2578	17971
2003	3836	1800	2678	2511	17164
2004	4147	2666	1963	3033	18241
2005	3926	2490	1883	2660	17131
2006	4453	2607	1720	2858	17060
2007	4238	1797	2135	2856	16632
2008	3802	2105	1737	3152	16796
2009	2872	2414	2282	3197	17368
2010	3141	2525	2585	2363	15964
2011	3337	2206	2100	1326	14027
2012	3786	2572	1875	1172	13754

स्रोत : एनसीआरबी (NCRB)

पी.सांईनाथ ने भारत में किसानों की आत्महत्या की स्थिति और उसकी प्रक्रिया का विस्तृत अध्ययन किया है। उनकी ताजा प्रकाशित रिपोर्ट में दर्ज टिप्पणियां दिखाती हैं कि नए आंकड़ों के अनुसार भारत में किसानों की आत्महत्या की दर में गिरावट हो रही है। कई राज्यों के आंकड़ों में अप्रत्याशित कमी दर्ज की गयी है और कुछ राज्य आत्महत्या के आंकड़ों को दर्शा ही नहीं रहे हैं। अर्थशास्त्री प्रो. नागराज की टिप्पणी को उन्होंने उद्धृत किया है जिसमें वे कहते हैं कि अगर आप नकारात्मक आंकड़ों को छुपाना चाहते हैं तो आप उन्हें एक श्रेणी में रखकर नहीं छिपा सकते हैं। अगर आंकड़ों को एक से अधिक श्रेणियों में बांट दिया जाए तो जाहिर सी बात है कि नकारात्मक आंकड़ों में गिरावट होगी।[1] एनसीआरबी (NCRB) ने दो तरह की श्रेणी बनायी हैं- स्वरोजगार (खेती-किसानी) और स्वरोजगार (अन्य)। ऐसा संभव है कि आत्महत्या के आंकड़ों को इकट्ठा करने की पद्धित भी आत्महत्या की संख्या में दिख रही अप्रत्याशित गिरावट का कारण हो।

इस त्रासदी की पृष्ठिभूमि देखने पर पता चलता है कि भारत में खेती का संकट 1990 के दशक से पहले शुरू हो चुका था। हरित क्रांति की सफलता कुछ क्षेत्रों, वर्गों और फसलों तक सीमित रह गयी थी। 1990 के दशक में महाराष्ट्र और कर्नाटक में किसान-आत्महत्या की खबरें सुर्खियां बन रही थीं और यही दौर भारत में नयी आर्थिक नीति और नयी राजनीतिक अभिव्यक्ति का था। इन सुधारों के मुख्य केन्द्र में बाजार व्यवस्था थी। इन नयी आर्थिक नीतियों के तहत कई तरह के उपाय किए जा रहे थे जिसमें नियंत्रण, सरकारी हस्तक्षेप को कम करना, निजी निवेशकों को स्वायत्तता, अंतरराष्ट्रीय व्यापार के लिए बाजार खोलना आदि था। भारत सरकार के इन सुधारों और नयी अर्थनीति का समर्थन और विरोध दोनों हुआ। देश के भीतर एक बड़ा समूह इन नयी आर्थिक नीतियों का विरोध कर रहा था। कई स्पष्ट-अस्पष्ट राजनीतिक अभिव्यक्तियां थीं। लेकिन यह साफ था कि भारत में अर्थनीति को लेकर कम से कम दो प्रमुख सोच थी। एक धड़ा साफ तौर पर उदारीकरण की नीतियों का समर्थन कर रहा था और उसकी मान्यता थी कि भारत की प्रगति को तेज करने का एक रास्ता यह है कि उद्योगों को बढ़त मिले और कृषि की निर्भरता को नया आधार मिले। जबकि दूसरा समूह इसके विरोध में था।

24 जुलाई,1991 को नयी उद्योग नीति की घोषणा की, केंद्रीय बजट पेश किया गया जिसने 44 साल पुराने ढांचे को बदल दिया। भारत के भूमंडलीकरण की शुरुआत हुई। भारतीय राजनीति में सक्रिय गुटों ने इस पर अलग-अलग तरह से प्रतिक्रिया की। मार्क्सवादी इसे पूंजीवादी मॉडल कह रहे थे, गांधीवादी अब तक यह स्वप्न पाले हुए थे कि गांव को विकास का केंद्र बनाना चाहिए, राष्ट्रवादियों ने इसकी खिलाफत इसलिए शुरू कर दी थी क्योंकि उन्हें यह लगता था कि यह राष्ट्र की आधारभूत संरचना को सत्ता और प्राधिकार से वंचित कर देगा। लेकिन जो सबसे प्रमुख बात थी वह यह थी कि निश्चित ही इस दौर की शुरुआत गांव के बजाय शहर और भारत की कृषि पर पारंपरिक निर्भरता कम करने के आग्रह के साथ हुई थी। " वर्ष 1991 के बाद विश्व बैंक और अंतरराष्ट्रीय मुद्रा कोष के निर्देशन में भारत सरकार ने अनुदानों को कम करते हुए इन सारे उपादानों को क्रमश: मंहगा करने की नीति अपनाई। दूसरी ओर, विश्व व्यापार संगठन की स्थापना के साथ ही खुले आयात की नीति के चलते कृषि उपज के सस्ते आयात ने भारतीय किसानों की कमर तोड़ दी। बढ़ती लागत और कृषि उपज के घटते (या पर्याप्त न बढते) दामों के दोनों पाटों के बीच भारतीय किसान बुरी तरह पिसने लगे। खेती घाटे का धंधा पहले से था, लेकिन अब यह घाटा तेजी से बढ़ने लगा और किसान कर्ज में डूबने लगे। संकट इतना घना हो गया कि देश के कई हिस्सों में किसान कोई चारा न देख बड़ी संख्या में आत्महत्या करने लगे।"[2] नवउदारवाद की अभिव्यक्ति भारतीय राजनीति के स्वर में और उसकी नीतियों में आगे आने वाले दशकों में गहरी होती गयी। पी.चिदंबरम ने अपनी किताब में लिखा है कि "आपने गौर किया होगा कि यहां दो

मुद्दे हैं। पहला मुद्दा है कृषि पर निर्भर रहने वाली बड़ी जनसंख्या। मुझे शक है कि निकट भविष्य में हम इस संख्या में कुछ रद्दोबदल कर पाएंगे। हमें बड़ी संख्या में लोगों को उद्योगों और दूसरे सर्विस सेक्टर में नौकरी करने को प्रेरित और उत्साहित करना होगा। कृषि भू-स्वामित्व का आधार सिकुड़ता जा रहा है, शिक्षा बढ़ रही है, युवक-युवतियों की इच्छाएं बढ़ रही हैं। लेकिन फिर भी भारत को कृषि पर लोगों की निर्भरता कम करने में कम से कम 25 वर्ष लग जाएंगे, हो सकता है कि ज्यादा भी लगें।"[3] यह देखा गया है कि सरकार द्वारा उद्योगों को बढावा देने के बाद भी पिछले एक दशक के दौरान औसतन 15 लाख नौकरियां प्रतिवर्ष सृजित की गयी हैं । लगातार उद्योगों को प्राथमिक बनाए रखने की नीति से भी किसान बड़ी संख्या में खेती का काम छोड़ रहे हैं। भारत में खेती का संकट और खेती पर भरोसा घटता जा रहा है। वर्ष 2005 से 2012 के बीच एक अनुमान के अनुसार 3.7 करोड़ किसानों ने खेती छोड़कर वैकल्पिक रोजगार अपना लिया। हालांकि इस प्रक्रिया के पीछे सरकार की नीतिगत प्राथमिकताएं खेती की अनिश्चितता के अतिरिक्त एक प्रमुख कारण है।

किसानों की आत्महत्या पर किए गए कुछ अध्ययनों से पता चलता है कि आत्महत्या का प्रमुख कारण सेहत की खराब दशा, कर्ज न चुका पाना आदि है। किसानों ने जिन स्रोतों से कर्ज लिया उनमें महाजन प्रमुख रहे हैं।[4] सेंटर फॉर डेवलेपमेंट स्टडीज के शोध ह्यूमन सिक्यूरिटी एंड द केस ऑव फार्मर ऐन एक्सप्लोरेशन, 2007 में कहा गया है कि - किसानों की आत्महत्या की घटनाएं ठीक उस समय हुईं जब भारत में आर्थिक और सामाजिक रुप से सहायता देने वाली बुनियादी संरचनाएं ढह रही हैं। हरित क्रांति, उदारीकरण की वजह से भारत में संरचनागत बदलाव आए लेकिन किसानों की आत्महत्या की व्याख्या के संदर्भ में बदलाव के कारणों की उपेक्षा की गयी है। खेती पर लागत मूल्य बढता गया और इसने किसानों के कर्ज लेने के लिए बाध्य कर दिया। कीटनाशक और उर्वरक देने वाली कई कंपनियों ने किसानों को कर्ज देना शुरु किया इससे किसानों पर दबाव बढता गया।[5] 1991 में एनएसएस का सर्वेक्षण दिखाता है कि भारत में कर्जदार किसानों की तादाद 26 फीसदी थी और 2003 के आंकड़ों में 43 फीसदी परिवार कर्जदार थे। जिसमें आंध्रप्रदेश, तमिलनाडु, पंजाब, केरल ,कर्नाटक और महाराष्ट्र में यह क्रमश: 82, 74, 65, 64, 61 और 54 % था। फार्मर्स स्यूसाइड- फैक्ट एंड पॉसिबल पॉलिसी इन्टरवेंशन्स 2006 , मीता और राजीव लोचन द्वारा किया गया महत्वपूर्ण अध्ययन है जिसमें बताया गया है कि - आत्महत्या का प्रमुख केंद्र महाराष्ट्र का यवतमाल जिला रहा है। आत्महत्या अधिकांशत : 30 से 50 आयुवर्ग के लोगों द्वारा की गयी। अधिकतर पर आर्थिक दबाव था। अध्ययन दिखलाता है कि लोगों को सरकार द्वारा चलायी जा रही योजनाओं के बारे में जानकारी नहीं थी। यहां तक कि उन्हें न्यूनतम समर्थन मूल्य के बारे में भी जानकारी नहीं थी। फसल बीमा के बारे में ज्यादातर किसान नहीं जानते थे। इस अध्ययन में दस सूत्री सुझाव भी दिए गए थे जिनमें से प्रमुख थे: प्रशासन और ग्रामीण समुदाय के बीच संवाद , स्थानीय स्तर पर किसानों को सामाजिक-मनोवैज्ञानिक सहायता, मनी लेंडिंग एक्ट, न्यूनतम मजदूरी कानून पर अमल, पीड़ित परिवारों को मुआवजा के स्थान पर रोजगार या व्यवसाय के लिए सहायता आदि।[6]

नीतिगत पहल के तौर पर संघ और राज्य सरकारों के स्तर पर कई नीतिगत पहल की गयी है। राष्ट्रीय किसान आयोग ने जीविका की सुरक्षा, सीमांत और छोटे किसानों को कर्ज माफी, फसल का उचित मूल्य और न्यूनतम समर्थन मूल्य में वृद्धि, संकट से जूझ रहे जिलों की पहचान, फसल बीमा आदि के उपाय किए हैं । फिर भी भारतीय खेती के सामने संकट बढ रहा है। ऐसे में आवश्यकता है कि सरकार खेती की नीतियों और उस पर पड़ रहे प्रभावों की समीक्षा करे ताकि अल्पकालिक नीतियों के बजाय ठोस दीर्घकालिक नीतियों के जरिए कृषि सुधार के व्यापक कार्यक्रमों को लागू किया जा सके।

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सोमप्रभ