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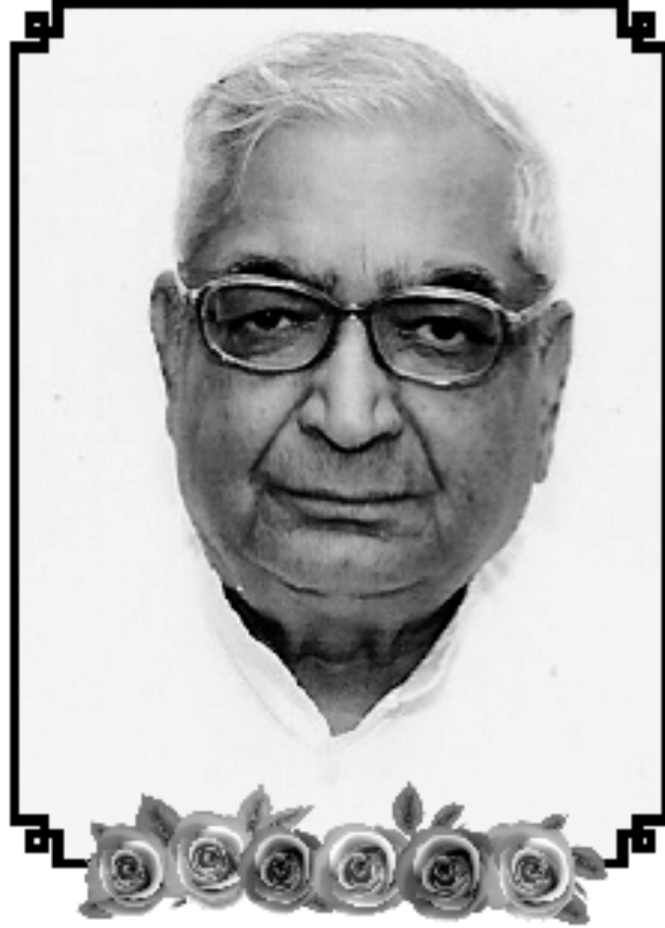
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श्रद्धांजलि

अधिवक्ता परिषद के शिल्पकार



मा. सूर्यकृष्ण जी

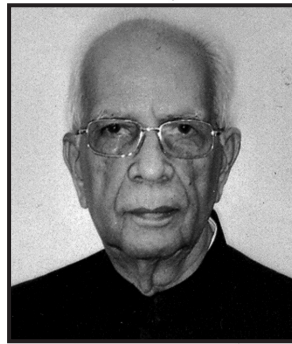
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यह जीवन समर्पित

केशरी नाथ त्रिपाठी
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06 जुलाई, 2017

संदेश

यह जानकर हार्दिक प्रसन्नता हुई कि अधिवक्ता परिषद, बिहार, पटना का 'रजत जयंती समापन समारोह' आयोजित होने जा रहा है।

इस समारोह के अन्तर्गत 'संविधान में भारतीय मूल्यों का समावेश' विषय पर परिचर्चा का आयोजन अत्यन्त सार्थक और प्रासंगिक है।

मैं परिषद के 'रजत जयंती समापन समारोह' के आयोजन तथा 'न्यायपुंज' नामक स्मारिका के प्रकाशन की समग्र सफलता की मंगलकामना करता हूँ।

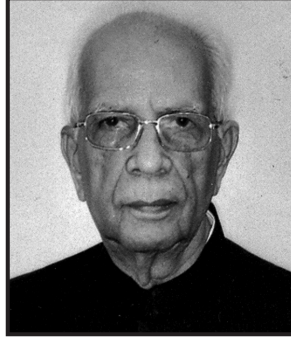
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(केशरी नाथ त्रिपाठी)

केशरी नाथ त्रिपाठी
राज्यपाल, पश्चिम बंगाल



राजभवन
कोलकाता ७०० ०६२
१७ जुलाई, २०१७



संदेश

मुझे यह जानकर अत्यंत प्रसन्नता हुई कि अधिवक्ता परिषद बिहार द्वारा अपने रजत जयन्ती वर्ष के समापन समारोह का आयोजन किया जा रहा है तथा इस अवसर पर एक स्मारिका “न्यायपुंज-II” का प्रकाशन भी किया जा रहा है।

मैं उक्त के सफल आयोजन तथा स्मारिका के सफल प्रकाशन के लिए अपनी शुभकामनाएँ प्रेषित करता हूँ।

शुभकांक्षी

केशरी नाथ त्रिपाठी
केशरी नाथ त्रिपाठी

Mrs. Mridula Sinha
Governor of Goa
(श्रीमती) मृदुला सिन्हा
राज्यपाल, गोवा



Raj Bhavan
Goa-403004
राज भवन
गोवा-403004

जून 13, 2017



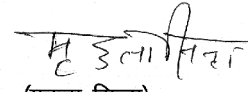
शुभकामना संदेश

मुझे यह जानकर बहुत प्रसन्नता हुई कि अधिवक्ता परिषद्, बिहार अपनी स्थापना का रजत जयंति वर्ष मना रहा है, जिसका मुख्य चिंतन विषय "भारतीय मूल्यों का संविधान में समावेश" है। इस अवसर पर परिषद् द्वारा 'न्यायपुंज' नामक स्मारिका का भी प्रकाशन किया जाएगा।

भारतीय मूल्य और संविधान एक-दूसरे के पूरक हैं। एक के बिना दूसरे की कल्पना नहीं की जा सकती है। भारतीय मूल्य के तीन प्रमुख व्यापक विषय साहित्य, शिक्षा और संस्कृति हैं। इन तीनों के संवद्ध सूत्रों में ही किसी भी समाज की संस्कृति प्रवाहित होती रहती है। इन्हीं तीनों में जाति, धर्म और देश के सिद्धांत और क्रियाकलाप समाहित होते हैं। किसी भी देश की उन्नति और गौरव इन्हीं बिन्दुओं पर निर्भर करता है। शिक्षा जीवन में व्याप्त अंधकार को दूर कर जीवन में सामंजस्य स्थापित करती हुई व्यक्ति और परिवारों के माध्यम से समाज को आत्मनिर्भर बनाती है। शिक्षित समाज ही प्रगति के पथ पर आगे बढ़ता है। जहां तक संस्कृति का प्रश्न है, भारतीय संस्कृति इस मायने में भी अनोखी रही है कि यहां पुरातन काल से मानसिक स्वतंत्रता सदैव अबाधित रही है। आधुनिक संस्कृति पर अनेकानेक प्रकार के वादों का प्रभाव पड़ा है। बहुत से मत-मतान्तर और विभिन्नताओं के बावजूद भारतीय समाज में एक सूत्रता दिखाई पड़ती रही है।

मैं परिषद् के सभी सदस्यों को बहुत बधाई देती हूँ और स्मारिका के सफल प्रकाशन की कामना करती हूँ। मुझे विश्वास है कि यह स्मारिका सबके लिए प्रेरणादायी होगी।

शुभकामनाओं सहित,


(मृदुला सिन्हा)
राज्यपाल, गोवा

श्री कौशल कुमार सिंह
संपादक, 'न्यायपुंज'
गोरखनाथ लेन, बोरिंग रोड, पटना- 1

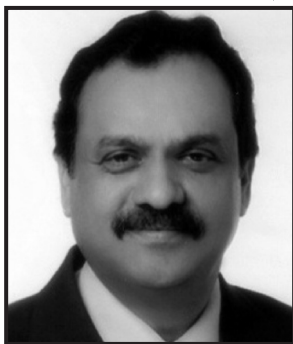
स्वच्छ गोवा-स्वच्छ भारत

Rajendra Menon



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Dated, Patna, July 26th, 2017



MESSAGE

I am glad to learn that “Adhivakta Parishad, Bihar, is going to celebrate Silver Jubilee function on its completion of 25 years’ journey and on this occasion has decided to publish a SOUVENIR on the theme subject “Embodiment of Bhartiya Values in our Constitution”.

I hope that the SOUVENIR will prove to be a great source of information about the activities and achievements of the Adhivakta Parishad, Bihar.

I extend my good wishes to the organizers and the participants and wish the function all success.


(Rajendra Menon, C.J.)

***Adhivakta Parishad, Bihar,
Gorakhnath Lane, Boring Road,
Patna – 800 001.***

Ajay Kumar Tripathi



August 8, 2017



MESSAGE

I am glad to know that Adhivakta Parishad, Bihar, on completion of 25th Year of its foundation, has been engaged in celebrating Silver Jubilee functions throughout the State for a year, which is to be valedicted on 31st of August, 2017 at Patna. The organization, as I have been informed, will also publish a Souvenir "Nyayapunj- II" on the theme subject "Embodiment of Bhartiya Values in our Constitution" on the said occasion.

Needless to say publication of Souvenir "Nyayapunj- II" will be well productive for members of the legal fraternity.

I wish all the success of publication of the Souvenir "Nyayapunj- II".

(Ajay Kumar Tripathi)

Justice Kishore Kumar Mandal

Dated 10.08.2017



To

*The Chairman,
Adhiwakta Parishad,
Bihar*

I am pleased to learn that Adhiwakta Parishad, Bihar is celebrating 25 years of its foundation. A quarter century is a long period to flourish the Institution. It has been given to understand that the Parishad, on this occasion, is going to publish a Souvenir titled “*Nyayapunj-II*”. The topic selected for discussion in the celebration is “*EMBODIMENT OF BHARTIYA VALUES IN THE CONSTITUTION*”.

The lawyers have always played a vital role in the upliftment of the nation. I sincerely believe that the members of the Parishad will continue making efforts to strengthen the values enshrined in our Constitution.

I wish all success to the upcoming silver jubilee celebration.

(Kishore Kumar Mandal)

Justice Dr. Ravi Ranjan



11th August, 2017



MESSAGE

It is pleasant to know that Adhivakta Parishad, Bihar, is celebrating Silver Jubilee function on completion of 25 years of its successful journey. On this occasion, Adhivakta Parishad, Bihar, is releasing souvenir “Nyay Punj II” containing its memorable past and useful articles.

I wish all success of Silver Jubilee function and souvenir of Adhivakta Parishad, Bihar.


(Dr. Ravi Ranjan)

Rakesh Kumar



11th August, 2017



Message

Adhivakta Parishad Bihar, as I have been told, has experienced 25th Years of its successful journey of its inception and engaged in celebrating Silver Jubilee functions for a year long. Its Silver Jubilee function is to conclude on 31.08.2017 with publication of a souvenir "Nyayapunj-II" on the theme topic "Embodiment of Bhartiya Values in Constitution".

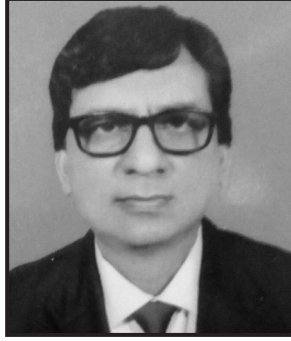
I wish a great success of publication of the souvenir and hope society at large will conceptually be benefited of the article published in it.

(Rakesh Kumar, J.)

Sanjay Kumar
Judge
Patna High Court



Dated: 11th August, 2017



Adhivakta Parishad, Bihar, as I know, is an organization dedicated to the well being of the legal fraternity and the society. It has completed its 25th years of uninterrupted journey and celebrating Silver Jubilee functions rightfully throughout the State for a year. Its Silver Jubilee Year is to end on 31st August, 2017, at Patna and a Souvenir "Nyayapunj-II" as the memory of Silver Jubilee Year is also to be published.

I wish a great success of publication of the Souvenir and hope the organization ashithertofore will shoulder the responsibility in building of the country on its eternal values.

Sanjay Kumar
(Sanjay Kumar)

अपनी बात, आपके साथ



कौशल कुमार सिंह
सम्पादक

भावुक क्षण है। जिस प्रकार अतिशय कोमलता से भूमि में समाहित किए गए बीज को अंकुरित होते, पुष्पित और पल्लवित होकर तरुण फलदार वृक्ष में परिणत होते देखकर अथवा घुटनों के बल ठुमकते शिशु को शैशवावस्था से क्रमशः बालक, किशोर और युवा होते देखकर पालक को जो आनंद और प्रसन्नता की अनुभूति होती है, हमें भी आज कुछ वैसा ही प्रतीत हो रहा है, अपने संगठन के रजत जयंती वर्ष पर।

गौरवशाली क्षण है, साथ ही आत्मविलोकन का भी। उत्साह का अवसर है, साथ ही अपने कार्यों और उपलब्धियों की समीक्षा का भी एवं भविष्य की रूपरेखा बनाने का भी। वह वर्ष 1992 का था, जब राष्ट्रीय विचारधारावाले एवं राष्ट्रवादी अधिवक्ताओं के एक अखिल भारतीय संगठन की आवश्यकता महसूस की गई और इस निमित्त भारत के सभी प्रांतों से प्रांतशः करीब 2 से 5 कुल लगभग 300 अधिवक्ताओं की एक बैठक संसद

एनकेसी में हुई, जिसमें राष्ट्रीय स्तर पर अखिल भारतीय अधिवक्ता परिषद नामक एक पूर्णतः गैरराजनैतिक संगठन को गठित करने का निर्णय माननीय उच्चतम न्यायालय के सुख्यात अधिवक्ता श्री यू0आर0 ललित के नेतृत्व में माननीय स्वर्गीय दत्तोपंत ढेंगड़ी एवं माननीय स्वर्गीय सुदर्शन जी की प्रेरणा से लिया गया और मूर्त रूप प्रदान किया गया। इस बैठक में सांगठनिक कार्यक्रम, विभिन्न न्यायालयों के अधिवक्ताओं से संपर्क एवं संगठन की संवैधानिक रचना पर बल दिया गया। संगठन के उद्देश्य, ध्येय एवं कर्तव्यों के विषय पर माननीय ढेंगड़ी जी ने इसे भारत के 'स्थायी संविधान सभा' के रूप में कार्य करने की परिकल्पना रखी। तदन्तर संगठन के ध्येय वाक्य के रूप में 'न्यायः मम धर्मः' को उद्घोषित किया गया, तथा प्रतीक चिह्न के रूप में 'खिले हुए कमल पर खुली पुस्तक' की मंडलाकार आकृति को ग्रहण किया गया। तब से अबतक हमारे संगठन ने एक लंबी यात्रा तय की है, और आज देश के कोने-कोने में अखिल भारतीय अधिवक्ता परिषद फैल चुका है, चाहे कश्मीर की घाटी हो या कन्याकुमारी, राजस्थान हो या नागालैंड अथवा अंडमान निकोबार, अपना संगठन अपनी ईकाई बना चुका है। कश्मीर के आंतकग्रस्त पुलवामा और बड़गांव जिलों में भी ईकाई बनी और कार्यक्रम हुए। नागालैंड के दिमापुर, कोहिमा और सूदूर ओखा जिले तक हमारी पहुँच बनी है, और अभ्यास वर्ग हुआ। अरुणाचल प्रदेश, मणिपुर और मिजोरम में भी अब अच्छी ईकाई बन चुकी है।

चुनौती पूर्ण क्षण है। उत्साहातिरेक में आत्मसंतुष्ट होकर ठिठकने का नहीं अपितु, अपने ध्येय वाक्य और ध्येय कर्तव्य को सामने रखकर लक्ष्य की ओर निरंतर अग्रसर होने का समय है।

आज राष्ट्र के समक्ष अनेक चुनौतियाँ हैं। होनी भी चाहिये। संघर्ष और गतिशिलता बनाए रखने के लिए चुनौतियों की बाधाएँ रखने के लिए, चुनौतियों की बाधाएँ आवश्यक हैं। हमारा संगठन भी ऐसे ही संघर्षों से दो-चार होता हुआ अपनी राष्ट्रीय जिम्मेदारियों का निर्वहण करता हुआ समाज के अंतिम पंक्ति में सबसे पीछे खड़े व्यक्ति तक न्याय पहुँचाने के लिए कटिबद्ध है। देश और समाज के प्रति अपने कर्तव्यों के प्रति सचेष्ट होकर संगठन अपने

विभिन्न कार्यक्रमों के द्वारा न केवल अपनी उपस्थिति समाज के प्रत्येक भाग तक पहुँचाने में समर्थ हुआ है, बल्कि सार्थक कर्म के बल पर इच्छित परिणाम भी प्राप्त करने में सफल हुआ है।

न्यायपालिका और न्यायप्रदायी प्रक्रिया की अपनी समस्याएँ हैं, जो मूलतः इसकी जटिलता के कारण हैं, एवं इस प्रणाली के सुचारु रूप से चलने में अवरोध का कार्य करती है। इस पुरी प्रक्रिया के हम अधिवक्तागण भी एक महत्वपूर्ण अंग हैं, और इस आत्मविलोकन की प्रक्रिया में हमें अपने पवित्र व्यवसाय की गरिमा और मर्यादा अक्षुण्ण रखते हुए इस पूरी न्याय प्रक्रिया को समाजोन्मुख एवं न्यायपरक बनाने का कार्य करना होगा। हमें गर्व और संतोष है, कि इस संगठन से जुड़े अधिवक्तागण अपनी इन जिम्मेवारियों के प्रति पूर्णतः सचेष्ट हैं, जिसकी झलक हमें अपने विभिन्न कार्यक्रमों में प्रतिबिम्बित होती दिखती रहती है।

भारतीय स्वतन्त्रता संग्राम का इतिहास अधिवक्ताओं के संघर्ष की गाथा है, और इसे बार—बार दुहराने की आवश्यकता नहीं है। यही कारण था कि संविधान निर्माण के काल में भारत के सनातन चिंतन एवं भारतीय परंपरा और विरासत की मूल—भावना को संविधान के अंतःकरण में समाहित किया गया। मूल भारतीय संस्कृति सभी विचारों का सम्मान करना सिखाती है, और यही कारण था कि निर्माताओं ने इसमें इस भावना को सीमित करने वाला 'धर्म निरपेक्ष' शब्द नहीं रखा था। मूल संविधान की प्रति में महान चित्रकार नंदलाल बोस द्वारा रचित भारतीय परंपराओं की स्मृतियों को उकेरती चित्रावली बहुत कुछ संदेश देती है।

संगठन का यह गौरवाशाली 25वाँ वर्ष अपनी गतिविधियों के विस्तार का वर्ष होना चाहिए। विभिन्न कार्यक्रमों का वर्ष होना चाहिए। युवाशक्ति को विचार श्रृंखला का राष्ट्रीय चेतना के प्रति उन्मुख करने का वर्ष होना चाहिए। न्याय को समाज के हरेक वर्ग तक ससमय पहुँचाने का वर्ष होना चाहिए। लंबित मुकदमों का रोना रोने का नहीं अपितु वैकल्पिक और परिवर्तित मध्यस्थता के मार्ग को अपना कर इसके निष्पादन में अपने योगदान का वर्ष होना चाहिए। संतोष इस बात का है कि हम क्रमशः अपनी क्षमता विस्तार करते हुए इस दिशा में आगे बढ़ रहे हैं और अपनी मंजिल स्वयं तय कर लक्ष्य को ऊँचा, और ऊँचा बनाते हुए गतिशील हैं और अपनी महती भूमिका के प्रति एक जाग्रत संगठन के रूप में दायित्व ग्रहण कर लक्ष्य प्राप्ति के प्रयासरत हैं।

अंत में इस कार्यक्रम एवं आयोजन की सफलता के लिए आहर्निश अथक परिश्रम और प्रयास कर रहे सभी कार्यकर्ताओं को कोटि—कोटि साधुवाद। प्रशंसा के शब्दों का अभाव है, पर उन्होंने अपने कर्तव्य और दायित्व का भलीभाँति निर्वहण किया है।

अधिवक्ता परिषद, बिहार के समर्पित कार्यकर्ताओं के अतिरिक्त हम उन सभी सामाजिक संगठन यथा मातृ संगठन राष्ट्रीय स्वयं सेवक संघ, विद्या भारती, संस्कार भारती, भारतीय मजदूर संघ, विधार्थी परिषद आदि के भी आभारी हैं, जिन्होंने स्वप्रेरणा से हमारे इस कार्य को सुगम बनाने में योगदान किया है।

और मुझ अकिंचन के लिए हमारे उपसंपादक बहुत बड़े सहयोगी के रूप में रहे हैं, जिनके सक्रिय सहयोग के बिना इस स्मारिका का प्रकाशन संभव नहीं था। उन्हें भी कोटि—कोटि धन्यवाद। स्मारिका का यह अंक आप सबों के विचारों में किंचित भी स्थान पा सके तो हमारा ये लघु प्रयास सफल हो जाएगा। धन्यवाद। ■

अधिवक्ता परिषद बिहार 1992 से आज तक



अमोद कुमार सिंह
अधिवक्ता,
प्रदेश महामंत्री
अधिवक्ता परिषद बिहार

भारतीय स्वतंत्रता संग्राम में अधिवक्ताओं ने बढ़-चढ़ कर भाग लिया, जो सर्वविदित है। स्वतंत्रता संग्राम के पश्चात् स्वतंत्र भारत में लोकतंत्र की स्थापना हुई तथा स्वतंत्रता के पश्चात् भारतीय सांसद बनकर अनेकों अधिवक्ताओं ने राष्ट्र निर्माण में अपना योगदान दिया। 1960 के दशक में निर्वाचित सांसदों में 60% सांसद लॉ डिग्रीधारी एवं अधिवक्तागण निर्वाचित होकर आये। धीरे-धीरे राजनीतिक परिदृश्य बदलता गया और लोकतंत्र की गरीमा में गिरावट आती गयी। आज सांसद एवं विधान सभा में अमर्यादित एवं अव्यवहारिक स्थिति देखे जाने लगे हैं तथा इसी कड़ी में 1974 ई0 के आपातकाल के दौरान सामाजिक एवं राष्ट्रीय सोच के सामाजिक कार्यकर्ता, वकीलों, पत्रकारों एवं बुद्धिजीवियों को देश के जेलों में बंद कर दिया गया। आर्थिक रूप से कमजोर एवं राष्ट्रीय भावना से प्रेरित जेल में बन्द लोगों को कानूनी सहायता की आवश्यकता थी ऐसे जेल में बन्द लोगों को मदद करने की प्रेरणा समान विचार धारा के लोगों के साथ वकीलों ने अपने-अपने राज्यों में प्रारंभ किया तथा राज्यों ने अलग-अलग नाम से कार्य भी करना प्रारंभ किया। इसी क्रम में "नेशनलिस्ट लायर्स फोरम" नाम से 1977 ई0 में कोलकाता में, "जुनियर्स लायर्स फोरम" नाम से, 1980 ई0 में नागपुर में, "भारतीय अभिभाषक परिषद" नाम से, 1987 ई0 में केरल में, आन्ध्र में "भारतीय न्याय परिषद", तमिलनाडु में "तमिलनाडु कल्याण एकवोकेट एसोसियेशन" बना कर कार्य प्रारंभ किया। रामजन्म भूमि के सौद्वैश्यपूर्ण आन्दोलन में लाखों संख्या में लोग जेलों में डाल दिये गये और उन्हें समुचित कानूनी सहयोग भी नहीं मिल पाने लगा, तब उत्तर प्रदेश में "अधिवक्ता परिषद, उत्तर प्रदेश" दिल्ली में "दिल्ली अधिवक्ता परिषद", बिहार में "अधिवक्ता परिषद, बिहार" का गठन हुआ। उसी प्रकार वर्तमान में भारत के सभी राज्यों में अधिवक्ता परिषद का कार्य चलता है, तथा सभी राज्यों में भिन्न-भिन्न नामों से कार्यरत समविचार के विभिन्न संगठन एवं प्रादेशिक स्तर पर गठित अधिवक्ता परिषद का विस्तृत स्वरूप राष्ट्रीय स्तर पर गठित किये जाने की आवश्यकता समाज सेवी वो चिंतक मा0 स्व0 दत्तोपंत ढेगड़ीजी ने आवश्यक समझा एवं उसके फलाफल से "अखिल भारतीय अधिवक्ता परिषद" का गठन 07 सितम्बर 1992 ई0 को नई दिल्ली में हुआ।

अखिल भारतीय अधिवक्ता परिषद को गठन के पश्चात् बिहार में शाखा 1992 ई0 में ही पटना उच्च न्यायालय के वरीय अधिवक्ता श्री राम सुरेश राय को संयोजक एवं श्री प्रमोद कुमार सिन्हा को सह-संयोजक बना कर प्रारंभ किया गया। श्री प्रमोद कुमार सिन्हा ने पुरे बिहार के प्रत्येक जिलों में सम विचार के कार्यकर्ता अधिवक्ता के नाम पोस्ट-कार्ड के माध्यम से जो कार्य प्रारंभ किया, उसी के अनुरूप आज पुरे प्रांत के 38 जिलों में एवं एक प्रशासनिक जिला नौवगछिया में अधिवक्ता परिषद, बिहार, का कार्य चल रहा है। बिहार प्रांत के 38 जिलों एवं एक प्रशासनिक जिला मिलाकर कुल 26 जिलों में कार्य समिति कार्यरत है तथा शेष में संयोजक कार्य कर रहें हैं।

अधिवक्ता परिषद, बिहार, के प्रथम अध्यक्ष श्री राम सुरेश राय एवं महासचिव श्री प्रमोद कुमार सिन्हा बने, तत्पश्चात् कार्य की प्रगति निरंतर होते रहा तथा द्वितीय अध्यक्ष माननीय स्वर्गीय नर्मदेश्वर झा, अधिवक्ता, पटना

उच्च न्यायालय एवं महामंत्री श्री प्रहलाद प्रसाद चौरसिया, अधिवक्ता, हाजीपुर, बने। श्री प्रहलाद चौरसिया ने भी अपने निरंतर प्रवास से पुरे बिहार में अधिवक्ता परिषद को कार्य को बढ़ाये जिस दौरान सहरसा जिला ईकाई ने दो बार स्मारिका प्रकाशित करवाया, जिसमें सिविल कोर्ट, सहरसा के सभी न्यायाधीश के अलावे सेवा निवृत्त गुवाहाटी हाई कोर्ट के न्यायाधीश श्री नीलम जी एवं संगठन मंत्री श्री सुर्यकृष्ण जी तथा अखिल भारतीय अधिवक्ता परिषद के महामंत्री श्री भूपेन्द्र यादव जी ने भाग लिया तथा पूर्णियाँ जिला इकाई ने वर्ष 2003 ई0 में अभ्यास वर्ग सदस्यों का करवाया। जिसमें सैकड़ों कार्यकर्ताओं ने अभ्यास वर्ग में शामिल होकर परिषद के कार्यों को बढ़ाने का संकल्प लिया, जिसमें भी अखिल भारतीय अधिवक्ता परिषद के महामंत्री श्री भूपेन्द्र यादव जी एवं सचिव श्री प्रमोद कुमार सिन्हा का सानिध्य वो मार्गदर्शन कार्यकर्ताओं को मिला, उसी प्रकार कार्य समिति की निरंतर बैठक एवं प्रान्तीय सम्मेलन बेतिया, खगड़िया, कटिहार, मधेपुरा, बेगुसराय, समस्तीपुर, दरभंगा, मधुबनी, हाजीपुर, पटना, दानापुर, मुंगेर एवं अन्य ईकाईयों पर आयोजित की जाती रही। हाल के दिनों में 8 एवं 9 जुलाई, 2017, ई0 को गया में दो दिवसीय प्रशिक्षणवर्ग बिहार एवं झारखंड प्रांत का एक साथ आयोजित हुआ, जिसमें अखिल भारतीय अधिवक्ता परिषद के संगठन मंत्री ने भाग लिये।

श्री नर्मदेश्वर झा के पश्चात् अध्यक्ष के तौर पर श्री यदुनन्दन झा, मुंगेर एवं महामंत्री श्री रविन्द्र कुमार सिन्हा, पटना ने परिषद के कार्यों का विस्तार किया। तत्पश्चात् चर्तुथ अध्यक्ष श्री गौरी शंकर प्रसाद, अधिवक्ता, मुजफ्फरपुर एवं महामंत्री श्री सुनील कुमार, अधिवक्ता, पटना ने पुरे बिहार में कार्यों को बढ़ाया है। श्री सुनील कुमार को अखिल भारतीय अधिवक्ता परिषद के राष्ट्रीय सम्मेलन, बंगलौर 2015 ई0 में, बिहार एवं झारखंड प्रदेश क्षेत्र का क्षेत्रीय सचिव पद पर कार्य करने के दायित्व के पश्चात् मुझे बिहार प्रांत का महामंत्री का पद सर्वसम्मति से सौंपा गया तथा कार्य समिति ने श्री रविन्द्र कुमार सिन्हा, अधिवक्ता, सिविल कोर्ट, पटना, को प्रदेश अध्यक्ष के रूप में अधिवक्ता परिषद के कार्यों को बढ़ाने का दायित्व दिया।

अखिल भारतीय अधिवक्ता परिषद का 25वर्ष पुरा होने पर पुरे देश में रजत जयंती वर्ष मनाया जा रहा है, इसी क्रम में 22 सितम्बर 2016 ई0 को विद्यापति भवन, पटना, में रजत जयंति कार्यक्रम का उदघाटन हुआ वो पुरे वर्ष में बिहार के अनेकों जगहों पर रजत जयंती वर्ष के रूप में मनाया गया। इसी क्रम में अखिल भारतीय अधिवक्ता परिषद का रजत जयंती का समापन 10 सितम्बर 2017 को हैदराबाद, आन्ध्र प्रदेश में आयोजित होना है, जिसके पूर्व प्रत्येक राज्यों में समापन कार्यक्रम किया जाना है, इसी कड़ी में अधिवक्ता परिषद बिहार का रजत जयंती वर्ष का समापन कार्यक्रम दिनांक 31 अगस्त 2017 को पटना के विद्यापति भवन में आयोजित है।

प्रांतीय कार्य समिति वर्ष 2018 सत्र तक की सूची इस प्रकार है:—

अध्यक्ष—	श्री रविन्द्र कुमार सिन्हा, पटना	
उपाध्यक्ष—	श्री विनोद कुमार, दानापुर श्री गंगोत्री प्रसाद, छपरा	श्री सुनील सुलभ, पूर्णियाँ
महामंत्री—	श्री अमोद कुमार सिंह, सहरसा	
मंत्री—	श्री अशोक तिवारी, सिवान श्री संजीव कुमार, पटना	श्रीमति अनिता आनंद, दरभंगा

कोषाध्यक्ष—

श्री मुकुल प्रसाद, पटना

प्रांत महिला प्रमुख—

श्रीमति शिखा सिंह परमार, पटना

राष्ट्रीय परिषद सदस्य—

श्री अंजनी भगत, दरभंगा

श्री ओषित कुमार, भागलपुर

डॉ शौभा चौबे, पटना

श्री शिव कुमार पाण्डेय, सासाराम

कार्यसमिति सदस्य—

श्री रामनाथ शर्मा, दानापुर

श्री रतन कुमार सिन्हा, सहरसा

श्रीमति मीना झा, बाँका

श्रीमति अर्चना, पटना

श्री राम उदित झा, दरभंगा

श्री सत्येन्द्र नारायण चौधरी उर्फ कौशल, नवगछिया

श्री विनोद कुमार, समस्तीपुर

श्री परमानंद प्रसाद, बिहारशरीफ

श्री सत्येन्द्र कुमार झा, पटना

श्री शैलेन्द्र कुमार, पटना

श्री राम विलास सिंह, मधुबनी

श्री निर्मल कुमार सिंह, मुंगेर

श्री धरणीधर सिंह "मुन्ना, मधेपुरा

श्री देव कुमार मिश्र, हाजीपुर

विशेष आमंत्रित सदस्य—

श्री सुनील कुमार, क्षेत्रीय सचिव, पटना ।

विभाग संयोजक—

श्री विनय कुमार झा— दरभंगा, मधुबनी, झंझारपुर

श्री संजीव कुमार, मंत्री—बेतिया,

मोतिहारी, मुजफ्फरपुर, सीतामढ़ी, समस्तीपुर ।

महेश प्रसाद—छपरा, सीवान, गोपालगंज, वैशाली ।

श्री रतन कुमार सिन्हा—सहरसा, मधेपुरा, सुपौल ।

श्री सुनील सुलभ एवं धरणीधर सिंह—पूर्णियाँ, कटिहार, किशनगंज, अररिया ।

श्री औषित कुमार, एन.सी.एम, श्री सत्येन्द्र झा कौशल—भागलपुर, बाँका, नौवगछिया ।

श्री राकेश चन्द्र वर्मा—मुंगेर, जमुई, लक्खीसराय, शेखपुरा ।

श्री कमल नयन प्रसाद कश्यप, श्री संजीव कुमार, श्री रामनाथ शर्मा—बाढ़, पटना सिविल कोर्ट, पटना सीटी कोर्ट, हाईकोर्ट, दानापुर, मसोढ़ी, पालीगंज ।

श्री विनोद कुमार—आरा, बक्सर ।

श्री महेश प्रसाद सिन्हा—गया, जहानाबाद, अरवल ।

श्री शिव कुमार पाण्डेय— सासाराम, औरंगाबाद, भभुआ ।

श्री परमानंद प्रसाद—नालंदा, नवादा, बिहारशरीफ ।

अधिवक्ता परिषद् का मूल उद्देश्य –

- क. न्याय प्रणाली के विकास के लिए सभी कार्य करना जो भारतीय परम्पराओं तथा भारतीय समाज की चेतना के अनुकूल तथा स्वीकृत संस्कृति एवं ऐतिहासिक परम्पराओं के अनुरूप हो।
- ख. राष्ट्र की एकता, अखण्डता और प्रभुता के लिए परिषद् पूर्णतः समर्पित है। परिषद् ऐसे सभी सभी क्रियाकलापों को प्रोत्साहित करेगी जिनका उद्देश्य राष्ट्र की एकता और अखण्डता का निर्माण तथा भारतीयों में बन्धुत्व की भावना का विकास करना हो।
- ग. विधि विज्ञान का संबंधन करना और विधि तथा इसके प्रशासन में उच्च अध्ययन और अनुसंधान का अनन्य और संचालन करना।
- घ. न्याय और विधि प्रशासन में सुधार तथा जनता की सामाजिक, आर्थिक और अन्य आवश्यकताओं के उपयुक्त न्याय प्रणाली के विकास का संप्रवर्तन करना।
- ङ. विधि और विधि प्रशासन तथा उसके आधारभूत सिद्धान्तों का प्रचार करना।
- च. विधि तथा संबंध क्षेत्रों में सम्बन्धित अध्ययन ग्रन्थों, कृतियों, पुस्तकों, नियतकालिक पत्रिकाओं, निर्णय पत्रिकाओं, अनुवादों और अन्य संबंधित साहित्य एवं अनुसांगिक प्रकाशित करना।
- छ. विधि व्यवसाय में लगे अधिवक्ता बन्धुओं, विशेषतया कनिष्ठ अधिवक्ता बन्धुओं के कल्याणार्थ योजनायें बनाना, उनके व्यापक हित संरक्षण हेतु कार्य करना।
- ज. पुस्तकालयों एवं वाचनालयों की स्थापना करना और उन्हें संचालित करना।
- झ. भारतीय संविधान और विधियों का पुनर्विलोकन करना और उनमें ऐसे परिवर्तन सुझाना जो समाज की सेवा हेतु उन्हें प्रभावी उपकरण बनाने के लिए अपेक्षित हो।
- ञ. सभी को, विशेषतया समाज के निर्बल वर्ग को विधिक सहायता उपलब्ध कराने के लिए कार्य करना तथा विधि का शासन स्थापित एवं दृढ़ करने के लिए प्रयास करना।
- ट. विधि व्यवसायियों को तथा न्यायपालिका के मध्य विधिक रामराज्य को प्रोत्साहित करना तथा प्रत्येक स्तर पर भ्रष्टाचार एवं अनियमितता के विरुद्ध जनमत जाग्रत करना तथा उसे मिटाने का प्रयास करना।
- ठ. उपर्युक्त सभी या किन्हीं उद्देश्य को अग्रसर करने में राष्ट्रीय तथा अन्तर्राष्ट्रीय समितियों, संस्थानों और संगठन को सहयोग देना और समान उद्देश्यों वाले शीर्षस्थ अखिल भारतीय निकाय के साथ संबद्ध होना।
- ड. ऐसे सभी कार्य करना जो उपर्युक्त सभी या किन्हीं उद्देश्यों की पूर्ति के लिए आवश्यक व उचित हो।

परिषद् द्वारा स्थापित प्रकल्प –

- क. स्वाध्याय मंडल (Study Circle)
- ख. न्याय केन्द्र
- ग. न्याय प्रवाह – अखिल भारतीय अधिवक्ता परिषद् नयी दिल्ली द्वारा त्रैमासिक पत्रिका। ■

REFUGEES, MIGRATION & ASYLUM & HUMAN TRAFFICKING UNDER INTERNATIONAL LAW



Hon'ble Justice Iqbal Ahmed Ansari

Former Chief Justice, Bihar

Presently: Chairman,

Human Right Commission Punjab

Concept of Sovereignty and Rule of Law :-

1. There was a time when the divinity of the Kings was the concept. The divine right of kings used to be a political and religious doctrine of royal and political legitimacy. It asserted, with might, that a monarch is subject to no earthly authority, deriving his right to rule directly from the will of God. The king, thus, was not subject to the will of his people. The doctrine implied that a king can do no wrong and any attempt to depose the king or to restrict his powers runs contrary to the will of God and may constitute a sacrilegious act. Sovereignty, in those days, used to be the quality of having supreme, independent authority over a geographic area, such as a territory and the power to make and implement a law for which no purely legal explanation was required to be provided.

2. Then came the Age of Enlightenment, in which 'reason' was advocated as the primary source for legitimacy and authority. The current notion of State Sovereignty is often traced back to the Treaty of Westphalia

(1648), which, in relation to States, codified the basic principles of territorial integrity, border inviolability and supremacy of the State. A sovereign, now, is the supreme lawmaking authority within its jurisdiction and this Authority to rule within its territory is akin to jurisprudential concepts of rights and duties. Thus, a sovereign, now, has the right to rule his territory and a corresponding duty is cast on the other nations to respect the sovereignty.

3. What I would like to point out here is that the concept of sovereignty is meaningless without there being an overwhelming flavour of rule of law. It would be, perhaps, since the days of

our existence, till date, that we have been striving for the establishment of rule of law. Albert Dicey, the British jurist popularized the phrase "rule of law" in 1885 by emphasizing on the three aspects of the rule of law :

(a) no one can be punished or made to suffer except for a breach of law proved in an ordinary court;

(b) no one is above the law and everyone is equal before the law regardless of social, economic, or political status; and

(c) the rule of law includes the results of judicial decisions determining the rights of private persons.

4. The famous 39th chapter of the Magna Carta provides that "no free man shall be taken or imprisoned or disseized, or outlawed or exiled or in any way destroyed; nor shall we go upon him nor send upon him but by the lawful judgment of his peers and by the law of the land."

5. As Culp Davis said, where the law ends, discretion begins and the exercise of discretion may mean beneficence or tyranny, justice or injustice, either reasonableness or arbitrariness.

6. Friedrich A. Hayek in his books : "Road to Serfdom" and "Constitution of Liberty" state that rule of law is much the same as that propounded by the Franks Committee in England " The rule of law stands for the view that decisions should be made by the application of known principles or laws. In general such decisions will be predictable, and the citizen will know where he is. On the other hand there is what is arbitrary. A decision may be made without principle, without any rules. It is therefore unpredictable, the antithesis of the decision taken in accordance with the rule of law. The

Comment [CC1] : The term Peace of Westphalia denotes a series of peace treaties signed between May and October of 1648 in Osnabrück and

Münster. These treaties ended the Thirty Years'

War (1618-1648) in the Holy Roman Empire, and the Eighty Years' War (1568-1648) between Spain and the Dutch Republic.

The Peace of Westphalia treaties involved the Holy Roman Emperor, Ferdinand III of the House of Habsburg, the Kingdoms of Spain, France, Sweden, the Dutch Republic, the Princes of the Holy Roman Empire, and sovereigns of the Free imperial cities and can be denoted by two major events.

- The Signing of the Peace of Münster between the Dutch Republic and the Kingdom of Spain on 30 January 1648, officially ratified in Münster on 15 May 1648.

- The Signing of two complementary treaties on 24 October 1648, namely :

- The Treaty of Münster (Instrumentum Pacis Monasteriensis, IPM) concerning the Holy Roman Emperor and France and their respective allies.

- The Treaty of Osnabrück (Instrumentum Pacis Osnabrugensis, IPO) concerning the Holy Roman Emperor, the Empire and Sweden and their respective allies.

The treaties resulted from the first modern diplomatic congress, thereby initiating a new political order in central Europe, based upon the concept of a sovereign state governed by a sovereign. In the event, the treaties regulation became integral to the constitutional law of the Holy Roman Empire.

The treaties did not restore the peace throughout Europe, however, France and Spain remained at war for the next eleven years, making peace only in the Treaty of the Pyrenees of 1659).

equality aspect of the rule of law and of democratic republicanism, apart from the elaboration in the chapter of fundamental rights, is provided in the preamble to our Constitution.

7. Let us now consider the preamble to the Constitution of India

Justice, Social economic and political;

LIBERTY of thought, expression, belief, faith and worship;

EQUALITY of status and of opportunity; and to promote among them all

FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation;

8. There is particular reason which necessitates the mentioning of the meaning and spirit of *rule of law* in the present subject of discussion, which otherwise, may not appear relevant. What is intended is to impress upon you all that the lacunae lies in the lack of international will to uphold the rule of law and to understand the concept of sovereignty in the light of rule of law, because, in the ultimate eventuality, the issues of refugee, migration, human trafficking, rather international human trafficking are issues vis-a-vis the concept of sovereignty. At the same time we may also recall that Alfred Adler, an Austrian psychoanalyst, once said that, "there is a law that man should love his neighbour as himself. In a few hundred years it should be as natural to mankind as breathing or the upright gait; but if he does not learn it he must perish." What is thus revealed is that the issues of asylum, migration, refugee or for the matter human trafficking are not only political but also emotional issue, for, if the people of other nations would have extended a helping hand to the persons seeking refuge, the political hurdle in the solutions to these problems can perhaps be lessened.

9. Now, in the light of the provisions

contained in the preamble to our Constitution, let us consider the definition of refugee provided in Article 1(A) 2 of the UN Convention for Refugees, 1951 amended by 1967 Protocol. The term "refugee" applies to any person who :

"...owing to well-founded fear of being persecuted, for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to return to it."

10. A minute reading of the definition will reveal that if the person be an Indian citizen, the *rule of law* as envisaged in the preamble has been denied to him on all counts. The person has been discriminated on the grounds of his association, community, and so on, which would mean that there has been a failure of establishment of *rule of law*, so far as the person is concerned. Now, if we read the definition of the refugee in a positive sense and from the perspective of an Indian staying abroad, the entire meaning changes and the definition is rendered as a welcome address to the person, exuding a confidence in his mind to return to his nation, the reason being, establishment of *rule of law*.

11. Let us take for instance the movement of Huguenots who migrated after the revocation of the Edict of Nantes (1685). The Huguenots were French Protestants who were members of the Reformed Church which was established in 1550 by John Calvin. Huguenots were not welcome community in France, the reasons being their affiliation to a particular religious belief. However, the **Edict of Nants**, issued on April 13, 1598, by **Henry IV of France**, granted the **Huguenots** substantial **rights** in the otherwise **Catholic** nation. The main concern was civil unity. The **Edict** separated civil from **religious** unity,

treated Protestants for the first time as more than mere **heretics**, and opened a path for **secularism** and tolerance. In offering general **freedom of conscience** to individuals, the edict offered many specific concessions to the Protestants, such as amnesty and the reinstatement of their **civil rights**, including the right to work in any field or for the State and to bring grievances directly to the King.

12. An unfortunate event occurred in October 1685, **Louis XIV**, the grandson of Henry IV, renounced the Edict and declared Protestantism illegal with the **Edict of Fontainebleau**. This act, commonly called the revocation of the Edict of Nantes, had very damaging results for France. While the wars of religion did not re-ignite, as many as 400,000 Protestants chose to leave France, most moving to **Great Britain**. This exodus deprived France of many of its most skilled and industrious individuals. The revocation of the Edict of Nantes also further damaged the perception of Louis XIV abroad, making the Protestant nations bordering France even more hostile to his regime. Upon the revocation of the edict, Frederick Wilhelm issued the **Edict of Potsdam**, which encouraged Protestants to come to Brandenburg.

13. The events stated above can be divided into three phases. In the first phase, we notice that certain basic civil rights were denied to the Huguenots because they believed on a particular faith. This denial of right to practice faith of choice is nothing but a denial of the right to *rule of law*. The Edict of Nantes, therefore, sought to enforce the *rule of law*, and it could not have done in any other way but to confer the basic civil rights to the Huguenots. So long as the Huguenots enjoyed the rights and status, their religious belief(s) did not come in their way of leading a peaceful life in France. Now, let us again consider the consequences of renunciation of the

Edict. The immediate consequence was mass exodus of Huguenots and rise of regional hostility on communal lines. What actually compelled the exodus of Huguenots was not withdrawal of edict, rather, the withdrawal of *rule of law*. The consequences of withdrawal of *rule of law* were not only mass movements but also regional hostility. The situation was brought under control only with the declaration of a new edict.

SOVEREIGNTY, INTERNATIONAL TREATIES AND RIGHTS OF AN ALIEN :-

14. At some point of time, world was one unit, but with the advent of nation state, we divided the world into several geographical units.

15. The irony is that by entering into various conventions we are again trying to unite the world, which we ourselves have divided. After having divided ourselves, we faced myriad problems, which eventually led further division on religious, community and racial lines and these divisions further led this world to witness innumerable wars and battles only to end up with the note of skepticism, was the war worth it? Then we developed the concept of United Nations which preaches respect for sovereignty and therefore allows enactment of immigration laws amongst others. With sovereignty came the issue of citizenship, the political certificate of residing within the State and the right to enjoy all the privileges of being a resident. The laws enacted by the State are basically citizen oriented and it is their welfare which is the sole criterion behind the enactment of legislation.

16. Our concern is the sovereign right of a nation to enact immigration laws vis-a-vis the rights of alien. Be it refugee, asylum and migration, the common phenomenon in all the three situations is flight of a person from his homeland. Therefore, the first aspect

which we need to consider is how to define a home.

17. 'Home' is a term, a concept, an idea, which may describe the place at which a person has lived for five or for fifty years. It is a place-where one belongs, or wants to belong. Therefore a distinction must be made between the actual geographic locations of a place where somebody lives and where a person thinks he/she belongs. The term 'home', therefore, needs to be looked at with care, all the more because its use cannot be avoided at times, and because it more often than not is also emotionally charged. It is important to keep in mind that no one will move light heartedly and without a cause. Most people prefer their home countries and will stay if conditions are even barely tolerable, which would mean *rule of law* has been paralyzed.

18. One of the most important documents of international law which embodies in clear terms the indispensability of *rule of law* is the UN International Covenant on Civil & Political Rights. The preamble to the said covenant speaks volumes on rule of law and the rest of the articles are merely details;

The preamble states as follows;

*"Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the **inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.***

Recognizing that these rights derive from the inherent dignity of the human person,

Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created

whereby everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights,

Considering the obligation of State under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms,

Realizing that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant."

19. The first unique feature of this covenant is its concentration on individuals humans rather than nations, and second is the responsibility cast on the member nations to respect the rights conferred on humans. Once, the member nations agree to confer the rights conceived of by this covenant, it becomes equally important to note herein, the rights, so conceived of by the covenant, which are essentials of a human.

1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.
2. Everyone shall be free to leave any country, including his own.
3. The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order, public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.
4. No one shall be arbitrarily deprived of the rights to enter his own country.

20. What the covenant prescribes for the nations to follow is that every member of their nation shall be given

the right to move freely within the territory of that nation including the right to leave the country. These two rights are basically the natural human rights, which has been conceived of, particularly to exude a confidence in the human freedom and therefore opposes the idea of slavery. The freedom of movement initially extends to, within the territory of a particular nation, but later, in clause 2, goes beyond the territory, thus recognizing a human right to move freely around the world.

21. Curiously enough, when the covenant goes a little further we find clause 3 of Article 12, which though commences with the general principles, that the right of movement, as envisaged in clause 1 and clause 2, are not subject to any restriction, tends to show, later, that rights of movement has been tethered by sovereign restrictions. The restrictions can be put under the following circumstances;

Those which are provided by law, necessary to protect national security, public order, public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenants.

22. Thus, unless the entry of a person into a foreign territory affects the national security, public order, public health or morals or the rights and freedom of others, the entry of person into a foreign nation has been recognized a civil and political rights. It is this unique feature of the covenant which we need to stress and debate as to whether the nations have fallen short in recognizing this right. We also need to debate on the issue as to whether sovereignty means a concept de hors the rule of law. It may be argued that rule of law means supremacy of law and that everyone is subject to law. Technically speaking the rights recognized as human rights may be regulated bylaw, and it may be reasonable as well, but I am afraid the

word 'law' in the concept rule of law does not simply mean the 'law', as enacted by a democratically elected body, rather it means law which conforms to those rights which are utterly basic for development and protection of human. "The 'law', here, means those norms of life which corresponds and aims at a better and peaceful society. Unfortunately, we have confined ourselves to oysters of sovereignty. We have strict laws to prevent the entry of other nationals into our territory and those who violate the laws are treated as criminals, are arrested, prosecuted and thrown back to the territory from where they have come, without even reminding ourselves of Article 12(3) of the Covenant, and inquiring whether the person is a threat to the society.

23. A perfect example of rule of law subsumed in sovereignty is found in the case of **Vincent Ferrer vs District Revenue Officer, Ananthapur, AIR AIR 1974 AP 313**. The facts of the case were that Vincent Ferrer, a Foreign National had been in India for nearly 20 years and had applied for Indian Citizenship. The Government of Andhra Pradesh had recommended his application which was pending with the Government of India. During the pendency of the application, the District Revenue Officer, acting as the Civil Authority under the Foreigners Act passed an order dated 24-12-1973 restricting the movements of Vincent Ferrer to the district of Anantapur and requiring him to obtain the written permission of the Civil Authority if he wanted to leave the District, irrespective of the duration of the intended absence from the district. The restraint order was challenged by Vincent Ferrer on the ground of arbitrariness and made in bad faith.

24. Referring to the Constitution of India and the rights guaranteed therein, Justice O. Chinappa Reddy, observed the following;

"It is well to remind ourselves at this stage, of certain basic human rights. On December, 10, 1948 the General Assembly of the United Nations adopted a Universal Declaration of Human Rights. Forty-eight countries voted for and none against the Declaration. There were eight abstentions; India with her nascent freedom was one of the countries that proudly voted for the Declaration. The Universal Declaration of Human Rights was proclaimed by the General Assembly and was the common standard of achievement for all peoples and all nations. Every individual and every organ of society were called upon to strive to promote respect for those rights and freedoms and by progressive measures to secure their universal and effective recognition and observance, Article 13 (1) of the Declaration is :

"Everyone has the right to freedom of movement and residence within the borders of each State."

Article 12 of the Declaration protects the right to privacy against arbitrary interference.

5. True, the Universal Declaration of Human Rights is not justiciable and the rights and freedoms enumerated therein cannot be enforced in any Municipal Court. But in considering the validity of an order restricting the movements of a foreign national a Court may well bear in mind that the right to freedom of movement is a right which this country has accepted as a basic human right and which its people have adopted as a Fundamental rights for themselves. (Emphasised)

6. One may well imagine a variety of situations when an order under Cl. 11 of the Foreigners Order may properly be made restricting the movements of a foreign national. Without doubt it may be made if a foreign national is suspected of engaging himself in espionage, or in subversive activities.

It may perhaps be made if he is suspected of indulging in carrying on hostile propaganda against friendly nations calculated to jeopardise our relations with such friendly nations. It can certainly be made if he is suspected to have a part in clandestine criminal activities such as peddling in drugs, trafficking in women and smuggling of gold. The very nature of these activities invites such orders, if not orders of expulsion from the country. Again, an order under Cl. 11 may be made if the foreign national is likely to leave the country without discharging his obligations such as payment of taxes, etc. or with a view to evade criminal justice. It is difficult to visualise all the situations when an order may properly be made; hence, the wide discretion given to the Government."

25. The High Court, eventually quashed the restraint order because, it was not found to have been issued under proper exercise of discretion.

26. The Observations of Justice Chinappa Reddy, speak in volumes what is meant by rule of law vis-a-vis sovereignty.

27. The Indian Constitution guarantees certain fundamental human rights to

citizens as well as non-citizens. The Preamble of the Constitution, which declares the general purpose for which the several provisions of the Constitution have been made, to "assure the dignity of the individual, "Which is also the basic objective of the international humanitarian law. The Article 21 of the Constitution of India guarantees the right of life and the personal liberty. A person cannot be deprived of right of life and liberty, except according to the procedure established by law.

28. This is exactly, what I mean when I say that civil and political rights would have no meaning unless we understand them from the perspective of international sovereignty. The international treaties and conventions have to be considered at par with municipal laws and unless the municipal laws recognize the freedom of movement as one of the natural rights of human, none of the conventions would have any meaning.

No wonder, why **Lassa Oppenheim** had remarked that;

"There exists perhaps no conception the meaning of which is more controversial than that of sovereignty. It is an indisputable fact that this

conception, from the moment when it was introduced into political science until the present day, has never had a meaning which was universally agreed upon".

29. There, as it appears to be me, no fundamental difference, between a refugee and a migrant, though, technical definitions may be offered distinguishing the two. A refugee is an involuntary migrant, a victim of politics, war, or national catastrophe. Migration, on the other hand, also comprises flight, in the sense that it is the overall term including any form of movement for whatever cause. In other words, we can say that every refugee is a migrant, but not every migrant is a refugee. Whatever caused refugees or migrants to flee, they have some characteristics in common : they are uprooted, they are homeless, they lack national protection and status and in one sentence rule of law has been denied to them. They, therefore, look for, as they say, greener pastures, a tendency, which has been continuing since the start of mankind and civilization. To me any attempt to prevent this phenomenon unless of course, as discussed above, required by the provisions of Article 12(3) of ICCPR, would be detrimental to world peace. ■



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SECULARISM, THE CORE BHARTIYA VALUE EMBODIED IN CONSTITUTION



Hon'ble Mr. Justice Dinesh Kr. Singh

Writer is the Hon'ble Judge of the Patna High Court.

India is a secular nation which she declares to be in the preamble of the Constitution of India. The word 'Secular' did not originally exist in the preamble, though basic principles of secularism are there under various provisions of the Constitution. With The Constitution (Forty-Second Amendment) Act, 1976, the words 'secular' and 'socialist' came to be incorporated in the preamble of the Constitution to declare India to be a 'Sovereign Socialist Secular Democratic Republic'. In celebrated case of *SR Bommai Vs. Union of India* (1994) 3 SCC 1 the Supreme Court, explaining significant status of secularism in the framework of Indian Constitution held that notwithstanding the fact that the words 'Socialist' and 'Secular' were added in the preamble subsequently, the concept of secularism was embedded in the Constitutional philosophy from the very beginning and what was implicit was made implicit with the said amendment

in the preamble. The concept of a secular State under the Indian Constitution, which has developed over the years has, however, been recognized to be significantly different from the American concept of secularism which warrants 'complete separation of church and state' and the French concept of *laïcité* which is explained as 'an essential compromise whereby religion is relegated entirely to the private sphere and has no place in public life whatsoever'.

This distinction was first noticed by Madras High Court in case of *Narayanan Numbudi Pal Vs. State of Madras* (AIR 1955 Mad 385) concluding that there are provisions in the Indian Constitution, which are 'inconsistence with the theory that there should be wall of separation between Church and State'.

On close examination of the Constitutional Scheme, it can be seen that there is a wonderful combination of secular and religious elements, which define and outline the shape of 'Secularism to be acted upon by the State' and 'the religious freedom to be exercised by individuals and ethnic groups/communities' in the country. There does not exist any impermeable 'wall of separation' between religion and the State which often do enter as and inter play within constitutionally and legally allowed parameters and judicially settled norms. Nevertheless, the Indian Constitution mandates that there is no state.

Right to profess practice and

provocation religion to all persons is guaranteed as a fundamental right under Article 25(1) of the Constitution of India, which is, however, subject to public order, morality and health and to the other provisions of Part III of the Constitution of India. Article 27 of the Constitution prohibits the State to compel any person to pay any taxes, the proceeds of which are to be specifically appropriated in payment of expenses for the promotion of maintenance of any particular religion or religious denominations. Article 28 of the Constitution of India is illustrative of the flavor of secularism, which is conceived under our constitutional scheme. Clause I of Article 28 prohibits providing religious instruction in any educational institution wholly maintained out of State funds, which follows the fundamental principle of secularism that the state shall have no religion. Clause II of Article 28 prescribes that Clause I of the said Article shall have no application to such educational institutions, which are though administered by the State but have been "established under any endowment or trust which requires that religious instructions shall be imparted in such institutions". Clause II of Article 28 is one of the examples where we can see the interaction between interaction and intervention in each other affairs of the State and religion. Clause III of Article 28 states that no person shall be required to take part in any religious instruction that may be imparted in any institution recognized

by the State or receiving aid out of the State funds or to attend any religious worship that may be conducted in such institutions or in any premises unless such person gives his consent. Evincible under our constitutional scheme though there is freedom to profess and provoke religion, religion cannot be thrust upon any individual by the State or with the aid of the State, directly or indirectly. Certain observations made by Supreme Court in case of S.R. Bomai Vs. Union of India (supra), are meaningful and of great significance in explaining the place of religion and concept of

secularism under our constitutional philosophy. The Supreme Court held that Constitutional provisions prohibit the establishment of theocratic State and prevent the State from identifying itself with or otherwise favouring any particular religion. Secularism is a positive concept of equal treatment of all religion, which is more than a passive attitude of tolerance. When the State allowed the citizens to practice and profess their religion, it does not either explicitly or implicitly allow them to introduce religion into non-religious and secular activity of the State. The freedom and tolerance of religions is

only to the extent of permitting pursuit of spiritual life which is different from the secular life, the later following in the exclusive domain of the affairs of the State, the Supreme Court remark.

In my view, declaration of law by Supreme Court in case of S.R. Bomai (supra), that Constitution has chosen secularism as its vehicle to establish an egalitarian social order is an exposition of the spirit of the Constitutional Philosophy which should be essentially always kept in mind while treating the subject of 'State, vis-à-vis religion. ■



सरस्वती विद्या मंदिर

अहिरौली, बक्सर

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हमारी विशेषताएँ

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8. सुसज्जित पुस्तकालय की व्यवस्था।



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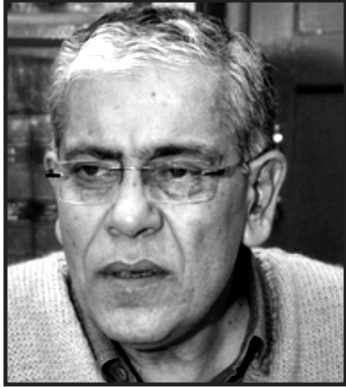
मंत्री



डा. अशोक कुमार सिंह

प्रधानाचार्य

EMBODIMENT OF BHARTIYA (INDIAN) VALUES IN OUR CONSTITUTION



Hon'ble Justice V N Sinha,
*Former Judge,
Patna High Court
Presently: Senior Advocate,
Supreme Court of India*

Vedas propound the concepts of Infinite (Anant), diversity (Anek), and impermanence (Anitya). As per Vedic literature nature preceded human beings (Atma) with ability to think for others (Para- Atma) and can reach the infinite divine (Param-Atma) beyond the self (Jiva-Atma). When human being thinks beyond self for others he is in line with his potential and is performing Dharma otherwise he's heading towards Adharma. Vedas require Atma to engage with others to reduce their hunger and fear, then Atma is on the path of Dharma, however, when he seeks to dominate and control others for self-aggrandisement, it is his ego (Aham), which is leading him towards Adharma. Empathy for each other is the sole purpose of human existence and thereby Atma is strengthened to become divine (Param-Atma).

In course of time Vedic Values of empathy for the weak and his

empowerment evolved as Bhartiya (Indian) values namely ;Ahimsa (Non Violence), Swa Dharme Nidhinam Sreyah(Ready and willing to sacrifice himself while performing Dharma/Duties), Vasudaiva Kutumbakam (The whole world is my family), Samarpan Bhaav (Dedication to work), Lokasangraha (Welfare of all beings by all possible way), Shubh Laabh (Ethical Profit), Nishkaama Karma (Deeds without greed), Ati Hyaastha Varjayet (Shunning all extremes) Atithi Devo Bhava, Spiritual Path, Care for the Environment, Unity in Diversity.

People of India after a long struggle of several hundred years, won independence and gave to themselves Constitution of India for their governance incorporating aforesaid core Indian values. Struggle for independence of India was undertaken by its people not only for replacing the foreign rulers by Indians but for establishing an egalitarian, enlightened, inclusive Dharma based Society, in which Justice, liberty, equality and fraternity should prevail amongst the members of the society assuring dignity of every individual member of the society. Aforesaid Indian core values are individual centric and are prominently reflected in the modern concept of justice, liberty and equality for every member of the society without which any society, much less modern Indian society could not have secured dignity of the individual member of the Society. Framers of the Indian Constitution were throughout conscious of the

aforesaid Indian core values while drafting, debating the various clauses of the proposed Constitution in the constituent assembly, as would appear from incorporation of fundamental rights, directive principles of state policy and fundamental duties in part III, IV, IVA of the Constitution which is the modern version of the aforesaid Indian core values as would appear from a bare perusal of the constituent assembly debates and the debate held at the time of insertion of fundamental duties in the Constitution by way of Forty-second Amendment Act, 1976. Both fundamental rights and directive principles of state policy are not only the modern version of the Indian core values but are also the two wheels of the chariot of the Indian State for assuring dignity of every individual member of Indian society. Establishment of core Indian values or Indian ethos in the country after independence was the sole purpose and object of the framers of the Constitution who were none else than the freedom fighters and they did so by adopting the Indian core values as the Constitutional provisions of part III and IV fundamental rights, directive principles of state policy for enlightenment or empowerment of people/ individual assuring their/ his dignity, the sole purpose for which war of independence was fought and won.

Framers of Indian Constitution in order to establish Dharma based Inclusive Society required the State not to discriminate between similarly situated person and persons on the grounds of religion, race, caste, sex or

place of birth and granted them equal protection of the laws within the territory of India. Citizens were further allowed access to Public Places i.e. shops, restaurants, hotels and place of public entertainment, Wells, tanks, bathing banks of river, roads and places of public resorts maintained wholly or partly out of state funds. Notwithstanding the aforesaid prohibition against discrimination, State is at liberty to take affirmative action in favour of women, children and members of socially and educationally backward classes or scheduled castes and scheduled Tribes to enable them to become part of the main stream of our Society and join hands in the development story of India undertaken after its Independence. Public employment in India has always been lucrative and attracting the talented youths. Constitution of India in order to make public employment broad based and people oriented, provided for the granting of equal opportunity to all Indian citizens in employment or appointment to any office under the State prohibiting any discrimination on grounds of religion, race, caste, sex, descent, place of birth and residence (domicile) so that talented youth from different sections of the Society may be appointed to any office under the State. Framers of the Constitution were aware that before independence, the character of public employment in India was elitist and not people oriented or broad-based and hardly inclusive of all sections of society. In order to change the character of public employment in India, the framers of the Constitution thought it appropriate to insert in the Constitution a provision for reservation of posts for any backward class which in the opinion of the State

is not adequately represented in the services under the State. Framers of the Constitution, while providing for affirmative action in favour of scheduled castes, tribes, or backward classes in the matters of reservation of posts in public employment, were conscious of the need to maintain high standards of public services and provided for taking into consideration efficiency of service (s) in making appointment against reserved posts.

Framers of the Constitution were also aware of the scourge of untouchability that prevailed in India before its Independence as the so-called twice born treated fellow Indians as untouchables and practised worst form of indignity on their fellow countrymen by treating them as untouchables in their own country. Being a scourge, untouchability, in any form, was not only abolished in India under article 17 of the Constitution but enforcement of any disability arising out of untouchability shall be an offence punishable in accordance with law and thereby equality clause of the Constitution became somewhat meaningful for the untouchables of pre-independence era. To further strengthen the dignity of the Indian individual citizen, framers of the Constitution also thought it appropriate to protect his freedom of speech, right to assemble peacefully, form association, free movement to reside, settle in any part of the country's territory and practice any profession, calling or trade. Aforementioned freedom(s) of individual citizen are of course subject to reasonable restrictions to be imposed by the State by enacting law.

Right to equality, freedom of speech, to assemble peacefully and

form association, etc. given to the people under article 14, 19, of the Constitution will be meaningful and usher dignity to them only if people are vested with the right against exploitation that is prohibition of traffic in human beings and forced labour. Accordingly, such right was given to the people under articles 23, 24 of the Constitution where under trafficking in human beings and forced labour, including employment of children below 14 years in factory was prohibited and made punishable in accordance with law.

The endeavour of the framers of the Indian Constitution to vest all such rights to the people of India which bestow dignity on them would have fallen short, had the Constitution framers not taken cognizance of the fact that India is home to people from different religions and culture and to protect their dignity, it is necessary to vest in the people right to freedom of religion i. e. freedom of conscience with liberty to profess, practice and propagate religion of one's choice and to protect the culture of the minorities. Accordingly such right was given to the people of India by the framers of the Constitution to profess the religion of one's choice and to protect the culture of the minorities under articles 25 to 30 of the Constitution.

Framers of the Constitution, were further aware that right to equality, freedom of speech, to assemble peacefully, forming of association etc., right against exploitation, including the right to practice religion of one's choice and to establish minority institutions enshrined in part III under articles 14 to 16, 19, 23 and 24, 25 to 30 of the Constitution respectively, could not

have alone introduced a social order for the welfare of the people in which justice, social, economic and political shall inform all the institutions of national life which is so essential for assuring dignity of the individual by minimising the inequalities in income, status, facilities and opportunities, required the State by way of directive principles of state policy in part IV of the Constitution to enact laws incorporating the principles enshrined in articles 39 (b), (c) dealing with material resources of the community and economic system so that ownership and control of the material resources of the community are so distributed as best to sub-serve the common good; and to develop an

economic system which does not result in the concentration of wealth and means of production to the common detriment and enable the State to endeavour for securing by way of legislation or otherwise living wage to all workers agricultural, industrial or otherwise. Fundamental duties included in part IV-A, article 51-A of the Constitution are the obligations of the citizen towards the State.

The constitutional scheme as enshrined in the afore discussed articles of the fundamental rights, directive principles of state policy and fundamental duties are the obligations of the State, people of India respectively towards each other and have been incorporated in the

Constitution with the sole object and purpose to enable individual and State to engage with each other with a view to reduce fear and pain of other individuals adopting the spirit of empathy and perform Constitutional/Vedic Dharma and establish a social order for the welfare of the people in which justice, social economic and political should prevail for assuring dignity of the individual for which war of independence was fought and won. It is, therefore, evident that the Constitution of India as originally enacted and amended from time to time is the embodiment of Indian values and is catering to the needs of people (common man) by assuring his dignity. ■

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A CONSTITUTIONAL OBLIGATION & RESPONSIBILITY OF THE LEGISLATURE



Pramod Kumar Sinha

Advocate

One of the founder member of ABAP
& Adhivakta Parishad, Bihar

Late Dr. Radha krishnanan, the 2nd His Excellency the President of Bharat, in his famous book 'Recovery of faith' explained the word secularism as, it does not mean that we reject the reality of an unseen spirit or the relevance of religion to life or that we exalt irreligion. It does not mean that secularism itself becomes a positive religion or that the State assumes divine prerogatives. We hold that not one religion should be given preferential status.

A human being has two sacrosanct rights, first the religious right and the second concerning personal right. So far as, the first right i.e. religions right is concerned, it confines to freedom of faith protected under Article-25 of the Constitution of Bharat subject to Public order, morality and health and to the other provisions of Para-III of the Constitution of Bharat commonly known as the fundamental

rights. But the another part of human right i.e. personal right is concerned, is a matter of governance exclusively come in the domain of legislature to enact laws on the subject as to how and the manner in whatever a person will be governed of his personal right.

Article-44 of the Constitution of Bharat, finds its place in Part-IV of the Constitution i.e. Directive Principles of State Policy, which under Article-37 makes the Principles fundamental in governance of the country and simultaneously casts duty on the State to apply the provisions of Part-IV in making laws. Article-44 of the Constitution of Bharat which does cast duty on the State, to endeavour to secure for the Citizens an Uniform Civil Code throughout the territory of India, has its importance emerged from the fallible historical facts;

"Diversity in personal matter, along with religions differentiation, led to sentimental tension between the major and the minor communities which led to partition of Bharat. Policy of British imperialism gave much air to ignite cleavage between Hindu and Muslims, wider and wider"

Therefore, the Constitution of Bharat in its preamble gave space to the 'Unity of Nation' the foremost importance, and Article-44, the provisions of Uniform Civil Code, did find place in the body of the

Constitution of Bharat in order to achieve the said foremost cardinal goal of our Constitution. Late K.M. Munshi, was member of the drafting committee of the Constitution, and he rejected prime objection raised by the objectors on the issue Uniform Civil Code, as it would be a tyranny to the minority community by observing that nowhere in advanced Muslim country Like Turkey and Egypt the personal of each minority has been recognised as so sacrosanct as to prevent the enactment of a Civil Code, and no minority in those country is permitted to have such rights. Late Munshi gone further and emphasised that when Shariat Act was passed by Central Legislature in British Bharat, Khojs and Cutchi Memons were highly dissatisfied, but the minority Muslims did not take care of their objections and feelings, and Late Munshi stressed that if the country wants to consolidate as a community, then the benefit which may accrue to the whole community and not to the customs of a part of it is to be taken in to consideration. European countries, most of which too are democratic countries, have their Civil Code, and everyone who have settled there or goes there from any part of the world and every minority community residing there, have no hesitation in submitting themselves to their 'Civil Code', The idea of Uniform Civil Code, according to Granville Austen, is essential to strike at the

heart of common orthodoxy.

It is true that Article-44 of the Constitution of Bharat does not define the expression Civil Code, but the expression Civil Law on its broad spectrum means the law both substantive as well as procedural, relating to private rights of the Citizen and therefore is distinguished from Public Law. Late A. Krishna Ayyar, a member of the Constituent Assembly, narrated the expression 'Civil Law' means the law governs the field of personal relations like contracts, property, marriage, inheritance etc., and Entries 5, 6, 7, 8, 9, 10, 12 & 13 of List III (Concurrent list) of Seventh Schedule of the Constitution of Bharat refer to Marriage and Divorce, Adoption, Wills and Succession, Joint Family and Partition, Transfer of Property, Trustees, Evidence etc., and except the Law of Marriage and Divorce, inheritance etc., almost all aspect of Civil Law has Uniform Enactments binding on all citizen of the country right from British Rule in India.

The Uniform Civil Code, as prescribed under Article-44 of the Constitution of Bharat therefore, is an aimed pious Constitutional duty bestowed on the legislature and the society to proceed towards an effective enactment at National Level as 67 Years of valuable period we have destroyed without any excuse. Goa Civil Code may be a blueprint in the direction of enactment of Uniform Civil Code at National Level. We know that Goa was under Portuguese Rule till its liberation and came in integration with Bharat. But all People of Goa, be they

Hindus, Muslims or other Minorities were governed under Portuguese Civil Code, 1867, without any hesitation or hue and cry. Our Parliament also, when Goa became part of the Union Territory in the Year 1961, by Virtue of Goa Daman & Diu Administration Act 1962 authenticated continuation of the said Portuguese Civil Code, 1867. It may be borne in every one's mind that Goa has sizable number of minority community including Muslims. When Dr. Mirdula Sinha, sworn in on the Chair of Her Excellency the Governor of Goa, She took initiative in the direction of enactment of Goa 'Civil Code' and started interacting more particular with women of different communities and gave structural blueprint to the Goa Legislature, who ultimately succeeded in Enacting 'Goa Family Law' governs all the people of Goa irrespective of their cast, religion, custom etc., important features of Goa Family Law in different aspect of the subject need to be highlighted as hereunder;

A. MARRIAGE

- (i) Registration of marriage is essential.
- (ii) Monogamy is essential, polygamy prohibited, but allowed in certain circumstances like if first wife is incapable to reproduce till certain age etc., vibrant divorce not permitted.
- (iii) Minimum age limit of marriage prescribed for male is of 21 Years and for female 18 Years, essentially prohibits child

marriage.

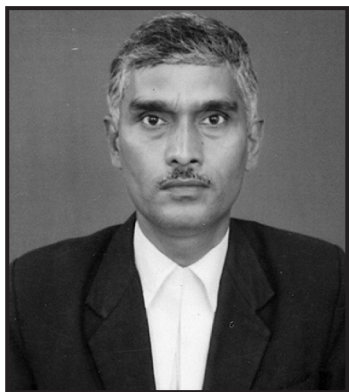
- (iv) Contract of Marriage can't end in vanity and mutual consent of parties is to be equally important to the contract of marriage.

B. INHERITANCE OF PROPERTY

- (i) Married couple to have joint ownership of all assets owned (before marriage) by each spouse. In case of divorce, spouse is entitled to half share of their total assets, Parties to a marriage, however may define their share mutually in case of divorce if they have their pre-nuptial agreements.
- (ii) Parents can't disinherit their children entirely, at least, half of their property has to be passed on, to their children compulsory.
- (iii) Inherited property must be shared equally among children irrespective of their gender.

Though suggestions have been invited through questionnaire, but in order to enact Uniform Civil Code at National Level, a blueprint/draft of such proposed enactment should be made public, so that the People at large many become able to give their effective suggestions and an Uniform Civil Code may be enacted effectively at an earliest, which is the embolden obligation, responsibility and duty of the Legislature in order to strengthen the root of secularism and achieve the true goal of integrity of the nation. ■

अधिवक्ता परिषद के बढ़ते कदम



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अखिल भारतीय अधिवक्ता परिषद, अधिवक्ताओं का एक गैर-राजनीतिक संगठन है, जिसके मूल में राष्ट्रीयता है, और यह भारतवर्ष में ही नहीं बल्कि पूरे विश्व में अधिवक्ताओं का सबसे बड़ा सुसंगठित राष्ट्रीय भावना में ओत-प्रोत संगठन है। अधिवक्ता परिषद की स्थापना 07 सितम्बर 1992 को महान समाजसेवी मा0 दत्तोपत देगड़ी जी के प्रेरणा से किया गया था। इस सुअवसर पर इन्होंने अंतराष्ट्रीय श्रमसंगठन के कई सम्मेलनों के अनुमोदननुरूप कार्यों का न होना, समान नागरिक संहिता न होना, न्याय का सस्ता, सुलभ एवं शीघ्रता से आमजनों को प्राप्त न होना, बढ़ते अलगाववाद, अनुच्छेद (48) का लागू न होना, न्यायालयों में न्यायाधीशों का घोर अभाव, जैसी समस्याओं की ओर कार्यक्रम में

उपस्थित अधिवक्ताओं का ध्यान आकृष्ट करवाया था। इन्होंने सभी न्यायिक एवं संवैधानिक पहलूओं पर नयी सोच का, न्यायिक प्रक्रिया व अधिनियमों में वृहद परिवर्तन का संविधान में उचित संशोधनों का, और उससे भी पहले उन सभी को, जो इस प्रक्रिया में शामिल हैं, उनकी मानसिकता में परिवर्तन करने की आवश्यकता पर बल दिया था।

अधिवक्ता परिषद समाज के हित में न्याय प्रतिपादन प्रक्रिया में सकारात्मक सहयोग विधि रचना प्रक्रिया में करता है। परिषद समाज में उत्पन्न विभिन्न समस्याओं के निवारण एवं न्याय प्रतिपादन प्रक्रिया विशेष कर समाज के शोषित वर्ग के लिये, किसी भी पक्षपात के बिना काम करता है। अधिवक्ता परिषद, अधिवक्ताओं का ध्यान ऐसे विधिक विषयों की ओर आकर्षित करती है, जिसका समाज व संस्कृति पर प्रबल असर हो सकता है।

अधिवक्ता अपने व्यवसाय व समाज में अच्छा प्रदर्शन कर सकें, के लिये “निरन्तर शिक्षा कार्यक्रम” के तहत स्वाध्याय मंडल का कार्यक्रम जिला ईकाई स्तर पर अधिवक्ता परिषद आयोजित करता रहता है। इस कार्यक्रम का लाभ सबसे ज्यादा युवा अधिवक्ता को मिलता है। अधिवक्ता परिषद अपने विचारों एवं कार्यक्रमों के

व्यापक रूप में प्रचार प्रसार करने के लिये “न्याय-प्रवाह” नामक त्रैमासिक पत्रिका का प्रकाशन निरन्तर कर रहा है। जिसमें विशिष्ट व्यक्तियों एवं अधिवक्ताओं के विचार, संवैधानिक न्यायाधिक निर्णयों, नवीन अधिनियमों, न्याय-प्रतिपादन प्रणाली, भारतीय मूल्यों व अन्य विषयों पर लेख प्रकाशित होते रहते हैं।

अधिवक्ता परिषद मानता है, कि न्याय-प्रणाली को समाज के गरीब एवं वंचित वर्ग की आवश्यकताओं के प्रति ज्यादा संवेदनशील होना चाहिए। अधिवक्ता परिषद समाज के अंतिम पंक्ति में बैठे वैसे गरीब वंचित व्यक्ति को सस्ता, सुलभ व त्वरित न्याय दिलाने के लिये ग्राम स्तर पर “न्याय-केन्द्र” कर रखा है, और इसका सकारात्मक परिणाम मिल रहा है। परिषद के कार्यकर्ता पूरे तन-मन से इस कार्यक्रम में न सिर्फ बिहार बल्कि पूरे भारतवर्ष में लगे हुए हैं।

अधिवक्ता परिषद का मानना है, कि समाज एवं देश के हर कार्य में महिलाओं की सुमचित भागिदारी हो, और इसलिये अपने संगठन में महिलाओं को यथोचित स्थान राष्ट्रीय स्तर से लेकर जिला स्तर की ईकाई में दिया है। अधिवक्ता परिषद, बिहार के प्रांतीय ईकाई से लेकर जिला ईकाई में महिलाओं को उचित स्थान दिया गया

है। स्थापनाकाल में श्रीमति किरणबाला सहाय एवं वर्तमान में श्रीमति शिखा सिंह परमार का कार्य सहराणीय रहा है। शिखा सिंह परमार के नेतृत्व में प्रदेश में महिलाओं की एक अच्छी टोली खड़ी हो गयी है। बिहार के प्रत्येक जिले, जहाँ परिषद का सशक्त ईकाई है, वहाँ महिला अधिवक्ता अपनी अच्छी भागिदारी निभा रही हैं, और यह अधिवक्ता परिषद, बिहार, के लिये गर्व की बात है।

अधिवक्ता परिषद, बिहार, स्थापनाकाल से लेकर अबतक लगातार प्रगति के पथ पर चलते हुए, संगठन द्वारा स्थापित मापदंडों/सिद्धांतों का शत-प्रतिशत पालन करते हुए नित्य नया इतिहास रच रहा है। जो एक गर्व की बात है। गर्व की बात है कि अधिवक्ता परिषद, बिहार, के कार्यकर्ता हमेशा निःस्वार्थ भाव से संगठन कार्य में तन-मन-धन से जुटे रहते हैं। अधिवक्ता परिषद, बिहार, के विकास में एक ऐसे ओजस्वी व्यक्ति माननीय श्री प्रमोद कुमार सिन्हा का भी नाम आता है, जो पद पर थे तब भी, और आज पद पर नहीं हैं तब भी, संगठन के विकास में तन-मन-धन से निरंतर लगे हुये रहते हैं। इन्होंने संगठन के सिद्धांतों के साथ कभी समझौता नहीं किया, और संगठन गैर-राजनितिक बना रहे इसके लिये निःस्वार्थ भाव से हमेशा प्रयासित रहे और इसी का परिणाम है कि

न्यायाधीशगण अधिवक्ता परिषद, बिहार, के कार्यक्रम में शिरकत करने से तनीक भी नहीं हिचकते हैं। अखिल भारतीय अधिवक्ता परिषद के विकास यात्रा में अधिवक्ता परिषद, बिहार का भी अहम योगदान रहा है, सबसे गर्व की बात यह है, कि संगठन द्वारा अखिल भारतीय स्तर पर स्थापित सभी मापदंडों/सिद्धांतों एवं निर्देशों का शत-प्रतिशत पालन करने में अधिवक्ता परिषद, बिहार का स्थान अखिल भारतीय स्तर पर सबसे उपर रहा है। राष्ट्रीय कार्यक्रम जो भी बिहार को मिलें हैं, उसे बड़ी सफलता पूर्वक, अति दिलेरी के साथ सम्पन्न किया। मेहमाननवाजी भी बिहार का सराहनीय रहा है। राष्ट्रीय कार्यसमिति बैठक 2009 बिहार को मिला था उस समय बिहार के अध्यक्ष श्री यदुनन्दन झा, प्रदेश महामंत्री श्री रविन्द्र कुमार सिन्हा, पटना, थे। इन्हीं के नेतृत्व में और माननीय प्रमोद कुमार सिन्हा जो उस समय राष्ट्रीय मंत्री थे, के मार्गदर्शन में बैठक की व्यवस्था महाराणा प्रताप भवन, पटना में, खड़ा किया गया। सभी कार्यक्रम अपने समय पर चले, सभी अतिथि व्यवस्था देखकर अतिप्रसन्न थे। कार्यक्रम सफल रहा। इस कार्यक्रम में बिहार के पटना सहित सभी जिलों का सहयोग रहा। पटना के सभी कार्यकर्ता का भी इस कार्यक्रम में अहम योगदान रहा।

पुनः 2014 वर्ष में अधिवक्ता परिषद, बिहार, को राष्ट्रीय परिषद

बैठक कार्यक्रम दिया गया, जो 26, 27 एवं 28 दिसम्बर, 2014 को सम्पन्न हुआ। इस वर्ष में मैं स्वयं बिहार प्रदेश का महामंत्री था तथा श्री गौरीशंकर प्रसाद, अध्यक्ष थे। इस कार्यक्रम में भी पटना सहित बिहार के सभी जिलों का योगदान रहा। इस कार्यक्रम में माननीय प्रमोद कुमार सिन्हा जी का मार्गदर्शन मिला एवं रविन्द्र कुमार सिन्हा, पटना का सहयोग मिला। यह कार्यक्रम दादी माँ मंदिर (अग्रसेन भवन) गाँधी मैदान, पटना, में सम्पन्न हुआ। सभी कार्यकर्ताओं के सहयोग से यह कार्यक्रम भी विभिन्न विघ्न-बाधाओं को झेलते हुए सफल हुआ। इस कार्यक्रम का उद्घाटन अवकाश प्राप्त मुख्यन्यायाधीश श्री एस0एन0 झा, राजस्थान एवं जम्मू-काश्मीर ने किया। इस अवसर पर उन्होंने अधिवक्ता परिषद, बिहार द्वारा प्रकाशित “न्यायपूज” स्मारिका का भी विमोचन किया। जिसके मुख्य सम्पादक श्री कौशल कुमार सिंह, अधिवक्ता, पटना उच्च न्यायालय थे, तथा सह-सम्पादक श्री लकमेश मारविन्द एवं श्री चेतन कुमार, अधिवक्ता, पटना उच्च न्यायालय थे। इस स्मारिका का राष्ट्रीय स्तर पर बहुत प्रशंसा हुई। यद्यपि कि पूर्व में भी जिला स्तर पर सहरसा में स्मारिका का सफल प्रकाशन हुआ था।

अखिल भारतीय अधिवक्ता परिषद पूरे देश में रजत-जयंती वर्ष 1992-2016 मना रहा है, और इसमें

अधिवक्ता परिषद, बिहार भी बढ़-चढ़ कर हिस्सा लिया है। जहाँ 07 सितम्बर, 2016, को दिल्ली में अखिल भारतीय रजत-जयंती वर्ष कार्यक्रम का उद्घाटन किया गया जो पूरे वर्ष भर 07 सितम्बर, 2017 तक चलेगा, वहीं अधिवक्ता परिषद, बिहार ने भी इस पवित्र कार्यक्रम को हाथों-हाथ लेते हुए 22 सितम्बर, 2016 को विधापति भवन, पटना, में प्रांत स्तरीय रजत जयंती कार्यक्रम मनाया। जिसका उद्घाटन बिहार के तत्कालीन मुख्य न्यायाधीश माननीय न्यायमूर्ति श्री इकबाद अहमद अंसारी, ने किया। इस अवसर पर न्यायमूर्ति श्री डा० रविरंजन जी विशिष्ट अतिथि थें। इस कार्यक्रम में प्रदेश के महामंत्री श्री अमोद कुमार सिंह, सहरसा एवं मंत्री श्री संजीव कुमार, अधिवक्ता, पटना के साथ-साथ प्रांत के सभी कार्यकर्ताओं

की अहम भागिदारी रही। जिसके चलते यह कार्यक्रम सफल रहा। रजत जयंती वर्ष में विभाग सह जिला स्तर पर भी भिन्न-भिन्न कार्यक्रम आयोजित किये गये जो अति सराहणीय रहा। कार्यक्रम आयोजित करने वाले जिलों में मधेपूरा, मुंगेर, दरभंगा, मधुबनी, सासाराम, छपरा, सिवान, सहरसा, नौवगछिया इत्यादी प्रमुख हैं। क्षेत्र-स्तर पर एक अभ्यास-वर्ग दिनांक 08-09 जुलाई 2017 को गया, बिहार में आयोजित किया गया। जिसके संयोजक श्री महेश प्रसाद सिन्हा एवं सह-संयोजक श्री उमेश प्रसाद सिन्हा, अधिवक्ता, गया थें। इस कार्यक्रम में बिहार-झारखंड के लगभग 110 कार्यकर्ता शामिल हुए। इस कार्यक्रम का उद्घाटन राष्ट्रीय संगठन मंत्री मा. श्री जयदीप रॉय, नयी दिल्ली ने

किया। रजत जयंती वर्ष समारोह का समापन कार्यक्रम भी 31 अगस्त, 2017 को विधापति भवन, पटना में आयोजित है। इस कार्यक्रम को यादगार बनाने के लिये अधिवक्ता परिषद, बिहार "न्यायपूज-II" स्मारिका का प्रकाशन करने जा रहा है। जो एक गर्व की बात है।

अधिवक्ता परिषद, बिहार, निःस्वार्थ भाव एवं राष्ट्रीयता से ओत-प्रोत अधिवक्ताओं का संगठन है। इन्हीं अधिवक्ता-कार्यकर्ताओं के बल पर अधिवक्ता परिषद, बिहार, निरन्तर प्रगति के पथ पर अग्रसर है, और प्रत्येक कठिन से कठिन कार्यक्रम एवं संगठन कार्य सफल होते जा रहा है, और आगे भी भविष्य में अधिवक्ता परिषद, बिहार, का नाम अखिल भारतीय स्तर पर सबसे उपर रहेगा। ■

शुभकामना संदेश

अंजनी कुमार सिन्हा

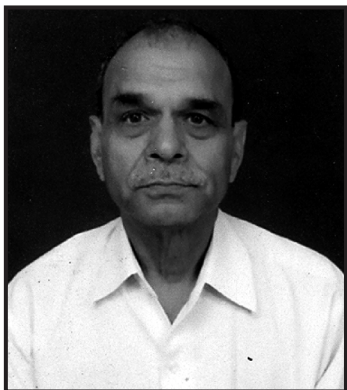
भूतपूर्व मुखिया

हरदास बीघा पंचायत

रोड नं.-6(A) राजेन्द्र नगर, पटना

JUVENILE JUSTICE

(Care and protection of Children) Act, 2015



Rabindra Kumar Sinha

Advocate

President, Adhivakta Parishad, Bihar

The Juvenile Justice Act is made for welfare of the uncared Children and humanistic orientation towards Society on the basis of the Clarian call of "Beijing Rules" (United Nations Standard Minimum Rules of Administration of Justice) 1985 and "Riyadh Guide Lines 1988 (guidelines for prevention of Juvenile)

Delinquency-Resolution 45/12-1990

According to section 4 of the Act,

the Juvenile Justice Board shall be constituted for the Group of Districts or a District by the State Government for dealing with all proceedings as to the Juveniles in conform with law. This board consisting of a Metropolitan magistrate or a Judicial Magistrate of First Class and the two social workers including one woman, shall form a bench having the power conferred by the code of criminal procedure 1974. Further, the Magistrate of first class nominated to the Board shall be designated as the Principal Magistrate.

The section 6 pertaining to the power of Juvenile Justice Board.

The act provides for release on Probation of good conduct and placement under the care of parents, guardians or other fit persons or fit institutions.

In Raju Vs. State of Karnataka, 1994 Cri LJ 248, A.I.R. 1994SC222, G.N. Ray observed; "considering the very young age of the accused person and considering the circumstances under which there are every like hood that they could not overcome the fit of passion and lost all sense of decency and morality and committed the

offence of rape and also considering the fact that the incident had taken place long back and during the course of proceeding up-to this court, both of them have suffered disrepute and suffered mental agony. We think that the ends of justice would be met if both accused persons are awarded sentence".

"Children require the protective umbrella of society for better growth and development as they are not in a position to claim their entitlement to attention, growing up food shelter and the like. It is the responsibility the society and is one of the paramount obligations of those who are in charge of governance of the country to attend to the Children to make them appropriate Children of tomorrow, "These are the words of the Honourable Supreme Court in Supreme Court Legal Aid Committee Vs. Union of India 1989 Cr. L.J., 1126.

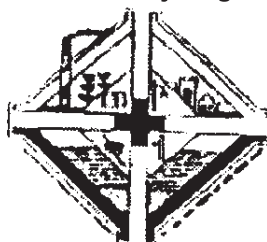
There is the need to have a sound sentencing policy, one that weighs the social injustice done to the victim equally. In this regard inspiration can be derived from the restorative Justice Mechananism" of U.S.A. ■

शुभकामनाओं के साथ,

के० एन० सहाय पर्यावरण एवं शहरी विकास संस्थान

सहाय सदन, बेली रोड, पटना-800 001

Established in 1990
Registered under the Society Registration Act XXI of 1860



रविनन्दन सहाय
अध्यक्ष

योगेन्द्र त्रिपाठी
निदेशक

डा० निर्मल कुमार श्रीवास्तव
सचिव

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संविधान में भारतीय मूल्यों का समावेश



शिखा सिंह परमार

संयोजिका सुकन्या

प्रान्त महिला प्रमुख, अधिवक्ता परिषद, बिहार

देखें तो कई सारे भारतीय मूल्यों पर आधारित एक्ट्स समाहित हैं, एभिडेंस एक्ट में। जैसे— डाइंग डिक्लेयरेशन आदि और आगे भी इन्हीं कुछ मूल्यों पर आधारित न्याय व्यवस्था अपेक्षित होगी भारतीय परिदृश्य में।

अधिवक्ता परिषद के कार्यकर्ताओं की अहम भूमिका अगर गंभीर हो, तो रजत जयंती वर्ष में सम्मान पूर्वक याद करें—

माननीय दत्तोपंत जी के 1992 के निदेशित मार्ग दर्शन को

इस संगठन के वकिल— राष्ट्रवादि सोच, सामाजिक उत्तरदायित्व, का भाव लिए अपने बौद्धिक शक्ति से एक्टिविस्ट के रूप में सक्रियता से समाज में काम करें।

तो मैं दो बिन्दु की चर्चा इस लेख में रख रही हूँ

माननीय उच्चतम न्यायालय के आगे

आने पर हमें आजादी के इतने दशक बाद ये माहौल मिला कि मानवीय मूल्यों के तहत किसी दुर्घटनाग्रस्त व्यक्ति को या उसकी सुचना थाना पहुँचाने के सहयोग से नागरिक आँखें न चुराएँ।

घायल को चिकित्सालय भेजवाने में निर्भक्ता रखें। इस जानकारी को सुचना-प्रसारण से क्रिकेट और फिल्मजगत के भगवानों ने स्क्रीन तक घर-घर पहुँचाने की भागीदारी भी निभाये।

पर क्या, इस अतिमहत्वपूर्ण भारतीय मूल्य सरिखे मानवीय मूल्य की जागृति नागरिकों के जीवन में समावेश ले पा रहा है?

उदाहरण स्वरूप — टीवी रिपोर्टिंग आधारित

1. फायर आर्मस से भी नहीं, कुल्हारी से भी कोई व्यक्ति किसी को दिन के उजाले में बीच सड़क काट रहा हो महिला को भी। जिसे बन्द दरवाजे में घर में फेमिली वाइलेंस एक्ट जैसी संबैधानिक सुरक्षा प्राप्त है तो भी क्या विडियो बनाके वायरल करने या भीड़ की शक्ल में विशमित होकर देखते हुए बढ़ जाना।
2. चार घण्टे तक ट्रेने से लटकते हुए व्यक्ति का सिर्फ विडियो वायरल करने के क्यू में शामिल होने वाले देश के युवा, नागरिकों की

मानसिकता इन मार्मिक बिन्दुओं पर भारतीय मूल्यों की अवधारणा का परसएंटाइल देख कर दिमाग झिझोड़ता है, कि संविधान में भारतीय मूल्यों का सिर्फ समावेशता नहीं होकर पालन करने तक की वैधता की कटोरता हो। विषय उदाहरणार्थ इतिहास से है—आर्यों की भूमि भारत वर्ष में संध्या कालिन युद्ध विराम उपरान्त आक्रमणकारियों के खेमे में जाकर भी घायल सैनिकों की सेवा सुश्रुखा का दृष्टान्त मिलता है। अभिदेश में अधिकाधिक मानव मृत्यु दर आंतकी शिकार, बिमारी के शिकार, से ज्यादा रोड़ एक्सिडेंट एवं समय रहते उपचार न शुरू होने का है।

अतः कहते हैं न, जहाँ से जागो, वहीं सवेरा, तो देर के प्रयास से शुरुआत हो रहा पर, दरुस्तता की अपेक्षा स्वभाविक दायित्व हो जाता है।

सो संविधान में जो भी कानून है मानवीय मूल्यों के लिए भविष्य में समावेश हो।

अधिकाधिक भारतीय मूल्यों का, पर अहम है भारतीय लोकतंत्र में, कानून के ज्यादा से ज्यादा पालन होने की दशा में दृढ़ता से **सुधार की ठोसता** सुनिश्चित हो, ताकी, नून-चून-खून कि श्रृंखला से कानून सस्ती चीजों की मंडी से उपर प्रतिष्ठित हो पाये। और बंद मुठ्ठी में ही लाख का वजन बता

कर सहमाएँ। यह स्वस्थ लोकतंत्र, यानी **स्वशासन** का पुरक होगा।

2. दुसरी चर्चा का बिंदू है, भारतीय डेमोक्रेसी के सर्वाधिक विश्वशनीय संस्था चुनाव आयोग के कार्य-क्षेत्र यानी चुनाव-प्रक्रिया।

मतदान कराने हेतु अति- सुविधा व्यवस्था बनाये रखने में रत रहने के साथ-साथ, मतदान नहीं करने पर कठोर प्रधान वान्छनिय है। विश्व के कई अन्य देशों के तर्ज पर **यूरो और डॉलर** आदि में जुमाने के दंडनीय व्यवस्था की समिक्षा कर, भारत जैसे विशाल लोकतांत्रिक देश में तो मतदान

नहीं करना सिधे-सिधे नागरिकता रद्द करने की ठोस प्रावधान की आवश्यकता रखता है। जैसी लगभग सर्त सरकार कई शासकीय बिंदू पर रखती है। सत्-प्रतिशत मतदान ही स्वच्छ तथा स्वस्थ जनतंत्र के व्यवस्था के कई समस्या का मात्र विकल्प हो सकता है। ■

रजत जयंती वर्ष में अधिवक्ता परिषद् बिहार

जिला इकाई दरभंगा की ओर से शुभकामना एवं बधाई!

1. श्री सियाराम चौधरी, वरीय अधिवक्ता, जिला-दरभंगा
2. श्री राम उदित झा, अधिवक्ता
3. श्री ब्रज मोहन प्रसाद सिंह, वरीय अधिवक्ता
4. श्री आलोक कुमार, वरीय अधिवक्ता
5. श्री अमर प्रकाश, अधिवक्ता, जिला महामंत्री, अधिवक्ता परिषद्, दरभंगा
6. श्री रामानन्द चौधरी, उपाध्यक्ष, अधिवक्ता परिषद्, दरभंगा
7. श्रीमती अनिता आनन्द, प्रदेश सचिव, अधिवक्ता परिषद्, बिहार
8. श्रीमती इंदू कुमारी, अधिवक्ता
9. श्री शिव शंकर झा, अधिवक्ता
10. श्री आशुतोष कुमार, अधिवक्ता
11. विनय कुमार झा, संयोजक, दरभंगा जिला इकाई



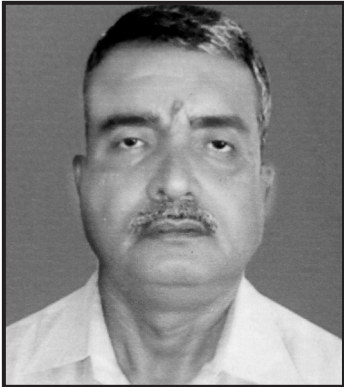
निवेदक

श्री अंजनी कुमार भगत

अधिवक्ता, सदस्य राष्ट्रीय परिषद्,

अधिवक्ता परिषद्, बिहार

BALUCHISTAN-IN ILLEGAL OCCUPATION OF PAKISTAN, ITS INDEPENDENCE IS THE NEED OF TIME



Sunil Kumar Singh
Advocate

27th May 2017, was very memorable day on which I was a sincere listener of a symposium organized by Vishwa Samvad Kendra, an organisation engaged in the field of Journalism, print and media, on the subject "Internal security of the Nation" in the auditorium of Bihar Industries Association and got an opportunity to here the speech of a reputed luminary highlighting besides the other inter alia on the issue of Kashmir unrest. The honourable gentlemen expressed his view impliedly that since India echoed the voice of Baluchistan through Hon'ble Primeministrial address to the nation given from Red Fort, on the Independence Day, Kashmir unrest, which though had been continuing since long, sparked up and got ignited immensely of course on the aid of Pakistan and went ahead in saying that after coming in to existence of Indian Independence Act, 1947, which received the Royal Assent of England on July 18, 1947, fixing 15th August, 1947, the appointed day, India as a new nation experienced the free air of Independence and a day ago a new nation Pakistan came in to existence on the world Map nothing remained to be open. Baluchistan became part of

Pakistan and the State of J&K acceded to India through letter of accession dated 26.10.1947, accepted by the Indian Govt., on and from 27.10.1947, to which some if and but remained to be addressed.

I respectfully differ with the said view. I may be wrong in properly conceiving the aforesaid view expressed by the said prominent luminary and I apologize if I have misunderstood him. I have a lot of respect of the said honourable gentlemen. The said view struck my heart and compelled me to write something on this important issue of Baluchistan vis a vis Jammu & Kashmir.

India had two major parts under Britishers. One part was princely states or the Indian States, which had been part of British Rule governed by the crown through the agreement of paramountcy and rest part of India was under direct British Rule. Baluchistan was treated alike princely/Indian State, but not through agreement of Paramountcy rather through a security agreement entered into, on 1st day of Oct. 1887, between the British Empire and the king of the State of Kalat, the Major territory of the province of the Baluchistan, which like other Indian States was totally unwillingly to accede to, with Pakistan. Here brief history of Baluch's needs to be understood.

Territory of Baluchistan earlier was known as western Baluchistan, Iranian or Persian Baluchistan which were connected with the Raidynasty of Sind. Britain and Iran divided Baluchistan in too many parts. In the 19th Century, nationalist in western Baluchistan revolted against Persian or Iranian occupation but was crushed by Anglo

Persian mission forces but struggle of Persian Qajar dynasty and British in eastern Baluchistan gave western Baluchis a chance to regain control of their territory in western Baluchistan and Bahram Khan at the beginning of the 20th Century succeeded to get control of Baluch lands and in 1916, the British empire recognised him the King of Baluchistan. Thereafter much water flown and Baluchis did not find themselves content with Britishers who divided it into four princely states namely markan, Las Bela, Kharam and Kalat. On 1st Oct, 1887, The British Empire entered into a security agreement with the princely state of Kalat whereunder the Kingdom retained its sovereignty and in 1947, when Pakistan as a sovereign nation came into existence on the world map, it signed a standstill agreement with the State of Kalat, the territory of the current province of Baluchistan excludes other small part like Markan, Les Bela and Kharam and recognised the autonomy and sovereignty of Baluchistan subject to future negotiation and relationship, as the petty princely states of markan, Las Bela and Kharam, which too form the territory of Baluchistan also did not merge themselves with Pakistan which Pakistan falsely claims and followed the path of Kalat.

Mohammad Ali Jinnah, prophet of the theory of Pakistan and its Kaide Azam, requested the State of Kalat to merge with Pakistan but Kalat's elected provincial assembly on 16th Dec. 1947, unanimously rejected it and Md. Jinnah then ordered Pakistani army to invade Kalat and annex it with Pakistan. Baluchistan then sought for help from the Govt. of India, but Pt. Nehru turned it down and kept mum and allowed India to be a silent

spectator as it remained in the case of Tibet, and under coercive military invasion of Pakistan, the then Ruler Ahmadyar Khan was compelled to sign the treaty of accession against the letter and spirit of its provincial assembly's resolution and the Indian Independence Act, 1947, in order to save the lives of his native.

Therefore, the issue of

Baluchistan can't be equated with the issue of J&K as the later signed the document of accession with Indian govt. without any pressure mounted by the Govt. of India but Baluchistan was virtually conquered by Pakistan under army operation and a province or Kingdom, be it very small and week, has a right to become independent from its conqueror like Pakistan and

live independently with peace and tranquility and preserve it's value/customs and identity and such freedom struggle of Balochi People be given all type of support by the world fraternity including India.

-Writer is an advocate of Patna High Court and National Executive Member of The Deptt. of Law and Legal Affairs of BJP ■

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GOODS SERVICE TAX



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Goods and services tax is an indirect tax applicable throughout India which replaced multiple cascading taxes levied by the central & state governments. It was introduced as the constitution one hundred and first Amendment Act 2017 following the passage of constitution 122nd Amendment Bill.

VAT rates and regulation differ from state to state. And it has been observed that states often resort to slashing these rates for attracting investor. This result in loss of revenue of both the central as well as state government.

On the other hand GST brings in uniform tax laws across all the states spanning across diverse industries. Here the taxes would be divided between the central and state government best on a predefined and

pre-approved formula. In addition it would become much easier to after services and goods uniformly across the nation, Since there won't be any addition state levied tax.

Impact of GST on small businesses

1. Simple taxation : Currently, a startup spends a lot of time and energy to manage the various taxes at various points. Adhering to different regulations at different States make the process very complex. GST will simplify the process by integrating all taxes, making the process of paying tax simpler.

2. Ease of registration: Any new business needs to have a VAT registration from sales tax department. A business operating in many States has to face a lot of issues regarding the different procedures and fees in each state. GST will bring about uniformity in process and centralized registration that will make starting business and expanding in different States much simpler.

3. Higher Exemption : As per the current indirect tax structure, any business with a turnover of more than Rs five lakh has to get VAT registration and pay VAT. GST will make this limit higher, to upto Rs 20 lakh and, further to it, businesses with turnover between Rs 20 and 75 lakh will be taxed at a lower rates. This will bring rejoice to newly established start up and small businesses.

4. Businesses in both sales and services: Businesses like restaurants, which fall under both sales and service

taxation, have to calculate the VAT and service tax on both items separately. This makes the calculations process very complex. GST will not distinguish between sales and services, and thus the tax calculation will be done on total.

5. Saving in logistics cost and time : Many transport vehicles get delayed during movement across States due to small border tax and check post issues. Interstate movement will become cheaper and less time consuming, as these taxes will be eliminated. The whole Indian market opens up for manufacturers as interstate supply becomes tax-neutral. This will also bring down costs associated with maintaining high stocks, as there will be undisrupted movement of goods. As per a CRISIL analysis, GST can reduce logistics costs of companies transported by railways – coal, iron ore, cement, steel, food grains, fertilizers) by as much as 20 percent.

Disadvantages of GST Bill in India

The Service Tax in India is now 15% but the GST is about 18-20%. All the services will be costlier.

The control on business will be of state and central government so it may be some complex for businessman.

All credits will be online and some penalties are like criminal activity. So it is threatening for small businessman who are now free from Taxes.

Concept of monthly return is very difficult to business. Penalty of late return should be minimized. ■

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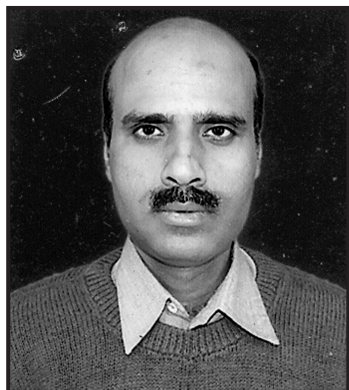
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POLICE REFORMS



Lakmesh Marvind

Advocate
Patna High Court

Politicization of police force, manifested in its lack of professional autonomy is a disturbing reality in India. Strong steps to remove the police force from the shackles of ruling politicians are the need of the hour. It is time that the old provisions of the Indian Police Act, 1861, which are still in existence are eschewed to make our police force more sensitive to the concerns and grievances of our people so that equality before the law could be guaranteed. This act was made to rule India by suppressive laws. And these laws have well suited to the Indian Politicians.

Today people believe that the police department is the most corrupt wing of the government and political interference is very high. The reasons to such belief are that each M.L.A. seeks Inspectors and Sub-Inspector of his choice to be posted in his constituency, the caste allegiance, amount of bribes, attitudes towards people of the MLA's community, and 'flexibility' are the characters that determine the posting of a Policeman. It is an open secret that at the State level senior police officers are promoted to serve the needs of the ruling party. We know that to go slow on certain cases, to thwart investigation, to deal with political opponent, police are needed for the politicians.

Unauthorized detention, torture,

harassment, custodial death, fabrication of evidence, false implication in criminal cases, malicious prosecution, etc are the direct violation of the right of the citizen.

Policemen in most of the cases ignore the complaint/FIR of an aggrieved person because they know that if a complaint/FIR are accepted then they have to start the investigation and the higher authorities may ask the progress of the investigation and in case they take cognizance of them, they side with the accused by taking bribe. We are familiar with the spectacle of perpetrators of violence being treated as witnesses, and victims of crime converted to be an accused.

To do away the aforesaid reality it is necessary that energetic, qualified (including good knowledge of law) and capable persons should be appointed as police personals. Selection processes have to be upgraded. Psychological strength and behavioral norms are to be inculcated in the police personals so that they could understand the values of nationhood and family. Then the police should be people friendly and bridge the wide gap with the public. It will result into getting more sources for intelligence to nip the criminals in the bud. And the goal of the community policing should be realized. Today the people do not share any information of the criminals with the police.

Police is an exclusive subject under the State list of our Constitution of India. States are only empowered to enact any law on the subject of Police. Seeing the gravity of the matter so many committees were set up for suggesting the measures for reforming the police force. But the committees' report were never acted upon by the States and Union Territories. Lastly the Hon'ble Supreme Court of India took initiative and delivered a landmark judgment on 22.9.2006 in Prakash Singh v/s Union of India case. The directions to reform the police force were given in this case to the Central Government, States & Union

Territories which in brief are as follows

- (i) Constitute a State Security Commission (SSC) in which leader of opposition Party will also have a role and would give policy directions to the police. It shall ensure that the state government does not exercise unwarranted influence or pressure on the police. It shall also lay down broad policy guideline and evaluate the performance of the State police.
- (ii) Ensure that the DGP is appointed through merit based transparent process and secure a minimum tenure of two years
- (iii) Ensure that other police officers on operational duties, i.e. SSP, SP, SHO's are also provided a minimum tenure of two years.
- (iv) Separate the investigation and law & order functions of the police. It is for insuring speed in investigation, better expertise and improved rapport with the people. It will also ensure better coordination between these two wings.
- (v) Set up Police Establishment Board (PEB) to decide transfers, postings, promotions and other service related matters of police officers of and below the rank of DSP and make recommendations of postings and transfers above the rank of DSP. It is to minimize political interference in these matters.
- (vi) Set up a Police Complaint Authority (PCA) at State level to enquire into police complaints against police officers.
- (vii) Set up a National Security Commission (NSC) at the Union Level to prepare a panel for selections and placement of Chiefs of Central Police Organization with a minimum tenure of two years.

Unless each state and Union Territory enact a law in consonance with the SC directives, the people of India will not cherish equality before the law enshrined under fundamental rights of the constitution of India. ■

भविष्य निर्माण में भारतीय मूल्यों की प्रासंगिकता



शोभा चौबे

अधिवक्ता

राष्ट्रीय परिषद सदस्या, अधिवक्ता परिषद, बिहार

किसी भी देश की रीढ़ उसके युवाजन होते हैं। खुशनुसीब है भारत जहाँ की सत्तर फीसदी आबादी युवा है। बदनसीबी यह कि वो असाधारण क्षमता, बीमार मानसिकता के कारण कुंठित है। छोटी छोटी बात पर गोली बंदूक निकाल लेना, झीना-झपटी छोड़िये बलात्कार अपहरण, हत्या जैसे जघन्य अपराधों को, ताकत का प्रदर्शन समझना, मजबूर कर देता है, सोचने पर कि हम कहाँ जा रहे हैं?

युवा आज विचित्र उन्माद में जी रहा है। विगत वर्षों में उच्च शिक्षा के लिये बाहर जा रहे बच्चों द्वारा आत्महत्या कर लेने की खबरें निरंतर पढ़ने सुनने को मिलती थी, फिर एक और सिलसिला चला। मोबाइल पर गेम खेलने में बच्चे इतने तल्लीन रहते हैं और न जाने किस प्रकार के टाक्स पूरा करने के दौरान अवसाद के कारण आत्महत्या कर ले रहे हैं। होश ही नहीं रहता उन्हें, न अपना, न माता पिता या अन्य परिवार जनो का। मन विचलित होकर सोचता है कि विश्व गुरु भारत

से कहाँ चुक हो गई, पीछे पलट कर देखना होगा।

परिवार मानव जीवन की पहली पाठशाला होती है, तब समाज, फिर विद्यालय यहीं मनुष्य का सामाजिक और मानवीय विकास होता है। ग्लोबलाइजेशन की आँधी ने जहाँ हमें तकनीकी दृष्टि से समृद्ध बनाया वहीं संस्कारों की छज्जियाँ उड़ गई। भविष्य खतरे में है। जड़ का ईलाज करना होगा।

शास्त्रों में कहा गया है कि किसी भी समस्या का हल शांत चित्त से ढुंढा जा सकता है, और कोई भी व्यक्ति जनित समस्या मानव क्षमता से बड़ी नहीं हो सकती। कहा जाता है कि जैसी मिट्टी होगी उसी अनुसार पौधे तैयार होंगे। यानि एक स्वस्थ मां-बाप ही स्वस्थ बच्चे को जन्म दें और उसके संस्कारों का पोषण कर सकते हैं।

मनुस्मृति में स्त्रियों के लिये 25 गुण निर्धारित किये गये हैं। प्रेम और जीवन के संदर्भ में और इनसे युक्त होना हर स्त्री से अपेक्षित था। कहा गया है कि प्रेम करने का अधिकार केवल स्त्री का ही होता है, और अगर 12 से 18 वर्ष की उम्र तक उनका सही ढंग से मानसिक पोषण किया जाय, जीवन का उद्देश्य निश्चित हो तो वो एक सर्वशक्तिमान व्यक्तित्व की स्वामिनी बन कर निखरेगी। ऐसी स्त्री के पैमाने पर कोई संपूर्ण व्यक्ति ही उतर सकेगा। कहा गया है कि ऐसी स्त्री को उसकी इच्छा के बगैर कोई छू भी नहीं सकता फिर हिंसा और बलात्कार तो सोच से परे होगी। पीड़िता के लिये कानून दर कानून

निर्माण और सशक्तिकरण कार्यक्रमों पर करोड़ों जाया होने से बच जायेंगे।

युवकों के लिये 10 गुणों का निर्धारण किया गया है। जिसमें क्षमा, धैर्य, सहनशक्ति, किसी भी प्रकार की चोरी से मुक्ति, विद्वता, सत्यता, अक्रोध आदि प्रमुख हैं। कहा गया है, कि वयसंधी में मस्तिष्क का शुद्धिकरण और सोच को वश में रखने की क्षमता जागृत करने की जरूरत है। साथ ही कहा कि बाल्यकाल के कुछ दोष जैसे— लालच, भय, मूकता तृष्णा, अशक्ति, आपदा का भय, मंदबुद्धि, खेलने में अत्यधिक रूचि आदि से मुक्ति वयसंधी में प्रवेश के साथ ही करवा देनी चाहिये अन्यथा युवावस्था के कुछ दुर्गुण जैसे काम, क्रोध, मद, असूया यानि गुण में दोष दृष्टि के साथ अगर बाल्यकाल वाले दुर्गुण भी मिल गये तो चरित्र निर्माण में बाधा उत्पन्न होगी, खंडित चरित्र होगा। उनके भी शरीर मन और भाव का संतुलन बना दिया जाय, घर की चाहरदिवारी से निकाल कर ऐसे विद्यालयों में डाला जाय जहाँ उनके सर्वांगीण विकास पर जोर दिया जायगा, जिसमें योग की अहम् भागीदारी होगी। ऐसे युवक अपने जीवन की महत्ता को समझते हुऐ बल पौरुश के साथ आदर्श युवको यथा भगत सिंह, राजगुरु, चन्द्रशेखर आजाद विवेकानंद आदि को पीछे छोड़ते हुऐ देश के नवनिर्माण में अपनी भागीदारी अवश्य सुनिश्चित करेंगे।

चाणक्य ने शिक्षकों के कर्तव्य च्युतता पर कहा था कि हम जितना शास्त्र के अभाव में नहीं हारे उतना शास्त्र के अभाव में हारे हैं। चन्द्रगुप्त

को शिक्षा देते हुये उन्होने कहा था कि
विचारों को वश में रखो
यही तुम्हारी वाणी बनेंगे।
वाणी को वश में रखो,
यही तुम्हारे कर्म बनेंगे।
कर्म को वश में रखो,
यही तुम्हारी आदत बनेंगे।
आदत को वश में रखो
यही तुम्हारा चरित्र बनेंगे।
चरित्र को वश में रखो,
यही तुम्हारा भाग्य बनेंगे।

उन्होंने शरीर के साथ साथ मन को काबु में रखने पर विशेष जोर दिया। उनका मानना था कि मनुष्य को पशु होने से रोकने के लिये जो तत्व चाहिये वो केवल बुद्धि ही है। समाज से मिले अनुभव ही वास्तविक पूंजी होते हैं। इस पूंजी से युक्त स्त्री-पुरुष ना सिर्फ अपनी आचार संहिता (code of conduct) तय करेंगे बल्कि आने वाली पीढ़ी को भी सही मार्गदर्शन देंगे।

Medical Science की हम बात करें तो मानव मस्तिष्क का विकास तीन चरणों से होकर गुजरता है, जो 21 वर्ष तक जाकर पूरा होता है। पहले स्तर में action लेने की क्षमता आ जाती है दूसरे स्तर पर साकारात्मक कदम उठाने अपना हित सोचने की maturity आ जाती है। हमारे किसी action का negative प्रभाव भी पड़ सकता है और आवेश को काबू में कर लेना आदि समझदारी तीसरे स्तर पर जाकर ही आती है। यानि पूर्ण परिपक्व होते होते 21 वर्ष हो ही जाते हैं। महिला गर्भ धारण करने के लिये 18 वर्ष के बाद ही शारिरिक रूप पूर्णतः परिपक्व मानी जाती है।

Medical jurisprudence में भी इन्हीं

बातों को ध्यान में रखते हुये juvenile justice act में maturity का age निर्धारण किया गया है।

हमारे वेद, पुराण और शास्त्र तब भी प्रासंगिक थे जब इनका निर्माण हुआ था और आज इतने युगो बाद भी प्रासंगिक हैं। हम अभी global village, की बात करते हैं श्रृगवेद ने पुरातन काल में विश्वग्राम की बात कह दी थी। कहा गया कि विश्व पुष्टि ग्रामे अस्मिन्नातुरं अर्थात् विश्वग्राम के सभी हृष्ट पुष्ट और समृद्ध हों। वैदिक परंपराओं में स्पष्ट तौर पर मानवता का संदेश देते हुये कहा गया कि हम अन्यो से वहीं व्यवहार रखें जो हम अपने लिये चाहते हैं।

समय आ गया है कि देश के कर्णधार पुनः मंथन करें। शास्त्रों से सीख लेकर भारतीय मूल्यों का पुनः प्रतिस्थापन करें। बड़े मंचों से छोटी बातों को कहने की असहजता से बचते हुए देश हित में छोटे मगर अहम बिंदुओं पर सत्त प्रयास से ही नींव मजबुत होगी। इसी परिपेक्ष्य में UNO जैसे बड़े मंच से मैं न नीय प्रधानमंत्री, भारत, ने मातृत्व अवकाश 6 महीने तक क्यों? और भविष्य पर इसका

प्रभाव सारी बातों को साफ कर दिया। इक्हत्तरवे स्वतंत्रता दिवस पर शास्त्र को उद्धृत कर उन्होने बताया कि शास्त्र कहते हैं कि कर्म सही वक्त ना किये जाये तो इच्छित परिणाम नहीं मिलते।

अधिवक्ता परिषद, जो भारतीय मुल्यों के पुनः प्रतिस्थापन हेतु सत्त प्रयत्नशील है, का रजत जयन्ति मनाना तभी सार्थक होगा जब हम भारतीय मुल्यों को किताबों से निकाल कर संविधान के पन्नों में ना सिर्फ दर्ज करवाये बल्कि भविष्य निर्माण में उन मुल्यों की इटें लगा कर उसे अभेद बना लें। ■

उत्तर प्रदेश, बिहार एवं झारखंड से प्रकाशित

‘आज’ हिन्दी दैनिक

स्थापित - 1920



वाराणसी, गोरखपुर, इलाहाबाद (रीवा संस्करण), कानपुर (झांसी संस्करण), लखनऊ, आगरा, बैरौली, हल्द्वानी, पटना (कोलकाता संस्करण), रांची तथा जमशेदपुर से प्रकाशित

INCOME TAX

TAXATION OF HINDU UNDIVIDED FAMILY



Parmanand Prasad

Advocate

Member, State Executive
Adhivakta Parishad, Bihar

A Hindu undivided family (HUF) consists of all persons lineally descended from a common ancestor including their wives and unmarried daughters. Daughters born in the family are its members till their marriage and Woman married into the family are equally members of the undivided family. A Hindu family is presumed to be undivided unless the contrary is stated. Generally, that father of the family or the senior most male member of the family managed the property of the family as 'KARTA'. Membership to the family is possible only by birth. A HUF is a separate entity. It can own Property, sell property, earn incomes and enter into contracts with others, through its 'KARTA'. Members of a HUF are also called as coparceners. A coparcener has the right to demand partition of HUF. A distinction between the individual property and HUF property is very significant here. Whereas the individual property of a person devolves on his legal heirs on his death; the ancestral property of a

person (which he acquired by way of inheritance from his father or forefathers) vests in his undivided family, and the members of family own it jointly till it is divided amongst them. A joint family may consist of a single male member with his wife and daughters and it is not necessary that there should be two male members to constitute a joint family. Where a male member of a HUF receives a portion of joint family property on partition as his share, he must be assessed in respect of the property which he so receives as 'Karta' of his HUF and not as an individual, even if his family does not have any other male member but consists of himself and his wife and his daughters. A HUF may consist of a single male member and widows of deceased male members. Even after the death of the sole male member, until the property of the HUF remains in the hands of the widows of the members of the family and is not divided among them, the joint family continues. However, there must be more than one person. A single person, male or female, does not constitute a HUF.

How to create a New HUF? A Hindu joint family consists of the common ancestor and all his lineal male descendants up to any generation together with the wife or wives (or widows) and unmarried daughters of the common ancestor and of the lineal male descendants. Thus, a HUF can't be created. It is a creature of law. Actually where we talk of creating a HUF as a separate entity for tax purposes, we mean creation of HUF property for deriving taxable income in

the hands of the new tax entity.

A HUF can be created in the following ways:-

- (1) By Will
- (2) By Gifts
- (3) By Partition of larger HUF
- (4) By doing joint labor
- (5) By blending of individual property with the family hotchpots
- (6) By reunion of separated coparceners
- (7) By Agriculture income Of the above, will and Gift are the most common ways of creating a HUF.

Will : A HUF can be created by will of a person, provided the will is valid and there is a specific bequest in favour of the HUF. There must be in existence already a nucleus of HUF property. HUF can be brought into existence even by a stranger, by making a will in favour of the HUF of a person. By bequeathing properties in favour of the HUF or HUF's of his son or sons, one can create new HUF units at the disposal of his sons, which will be separately assessed.

Gift : Any person who is not a coparcener, may make a gift to the HUF, For example, a father can gift his self - acquired property to the HUF of his Son, provided there is a clear and unequivocal declaration that the gift is being made for the benefit of his family and not to him as an individual. However,

in making such gifts, provision of sec. 64 of the Income Tax Act, 1961 should be kept in view. The gift may not be considered as an indirect transfer to the son's wife and son's minor children. Gifts of money/property exceeding Rs. 50,000 in aggregate during the financial year, received by a HUF shall be taxable as its income from other sources.

Taxation of HUF :

[Sec-2(31) of Income Tax ACT-1961] A HUF is treated as a 'Person' and is taxable as a distinct tax entity. The total income of a HUF is

computed in the same manner, as in case of individuals, under the different heads of income.

Liability to pay tax:

A HUF is liable to pay tax if its total income exceeds Rs. 2,50,000/-. The rates of tax are the same as in case of individuals

Deduction for Remuneration paid to 'Karta' or its member:

If the HUF pays any remuneration to the 'Karta' or its member for services rendered by him in managing the business or affairs of the HUF, then such remuneration shall be deductible from the income of the HUF.

Tax planning with HUFs :

HUFs have been used a very effective means of tax planning. Since HUF is deemed to be a distinct entity, it is widely prevalent to transfer certain sources of income in the hands of HUF and small HUFs of the sons, in a legal manner. Thereby more assesses are created HUF to divide their incomes for tax saving. Besides, a HUF may be used as tax-planning device in number of other ways, Viz, partitions, re-unions of the partitioned family, family settlements, payments of salary to Karta/member etc. HUF Funds may be invested in any source of income such as-shares, securities, House property etc. Deductions from gross total income of HUF are available as in case of individual. ■

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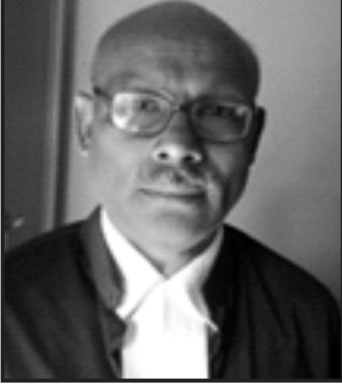


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न्याय मिलने में देरी क्यों?



राकेश चन्द्र वर्मा

अधिवक्ता

विभाग संयोजक, मुंगेर विभाग
अधिवक्ता परिषद, बिहार

आज निचली न्यायालय में तारीख पर तारीख पड़ती रहती है, मुवक्किल (फरियादी) को न्याय कब मिलेगा, इसकी कोई तारीख निश्चित नहीं होती और मुवक्किल मुकदमा लड़ते-लड़ते थक कर मुकदमा लड़ना छोड़ देता है या दम तोड़ देता है। न्याय मिलने में इतनी देर होती है कि मुवक्किल को अपने वकील से भी विश्वास उठने लगता है और उसे यह लगने लगता है कि वकील कमाने के चक्कर में मुकदमा का निष्पादन नहीं होने देता है। इससे अधिवक्ता की छवि खराब होती है, जबकि मुवक्किल का यह मात्र भ्रम है। निर्णय में क्यों देर होता है, इसमें न अधिवक्ता का और न न्यायालय का दोष है, फिर न्याय मिलने में देर क्यों? इसे आज समझना आवश्यक है।

पूरे भारतवर्ष के न्यायालयों की बात करें तो पाते हैं कि निचली न्यायालय से लेकर सर्वोच्च न्यायालय तक में लगभग 2.7 करोड़ मुकदमा लम्बित है। इस संबंध में सर्वोच्च

न्यायालय के एक पूर्व मुख्य न्यायाधीश ने एक लक्ष्य बनाया था, कि निचली न्यायालय में पाँच वर्ष एवं अपीलीय न्यायालय में दो वर्ष तक की अवधि मुकदमा की सीमित होनी चाहिये, क्या यह सम्भव है? जब कि आज के दौर में निचली न्यायालय में औसतन 6 वर्ष, उच्च न्यायालय में 3 वर्ष, सर्वोच्च न्यायालय में निर्णय होने में लगभग 13 से 14 वर्ष लग जाते हैं। मुकदमों की सुनवाई उच्च न्यायालय एवं सर्वोच्च न्यायालय में औसतन प्रत्येक दिन मात्र 70 मुकदमों की होती है। अब न्यायाधीशों की संख्या पर गौर किया जाय तो सर्वोच्च न्यायालय में न्यायाधीशों की संख्या 25 है, जबकि स्वीकृत पद 31 है। उच्च न्यायालय में न्यायाधीशों की संख्या 592 है, जबकि स्वीकृत पद 1056 है, तथा निचली न्यायालय में न्यायाधीशों की संख्या 15360 है, जबकि स्वीकृत पद 20358 है। अगर स्वीकृत पद भर दिया जाय तो निश्चित रूप से मुकदमा में सुनवाई की गति तेज होगी।

आज देश में बढ़ती आबादी एक समस्या बन गई है वैसे ही बढ़ता मुकदमा न्यायालय के लिये एक समस्या है। भारत में दस लाख की आबादी पर औसतन 14 न्यायाधीशों की संख्या है जबकि विकसित देशों में 50 (पचास) की संख्या है। इतने कम न्यायाधीशों के कारण मुकदमों के निर्णय होने में देर होती है। निर्णय शीघ्र हो, इसमें सरकार, न्यायपालिका और विधायिका में सामंजस्य होना आवश्यक है और मुकदमों की प्रक्रिया को सरल बनाना होगा। भारत में

मुकदमों की प्रक्रिया सरल नहीं होने के कारण किसी भी प्रकार के मुकदमा में प्रक्रिया पूरी होने में 2-3 वर्ष लग जाते हैं तब मुकदमों की सुनवाई आरम्भ होती है। न्यायालय एवं न्यायालय द्वारा आदेश का पालन करने में भी देर होती है, इसका कारण कर्मचारियों की कमी है। निचली अदालत में अनेकों छोटी-छोटी समस्या है। ऐसे मुकदमों के शीघ्र निष्पादन के लिये भी प्रयास हुए हैं, जैसे लोक अदालत, किशोर न्यायालय, परिवार न्यायालय, ग्राम कचहरी तथा विधिक सेवा प्राधिकार आदि चल रहे हैं। मगर मुकदमों का अम्बार है जो कम नहीं हो रहा है।

हाल ही में कलकत्ता उच्च न्यायालय के न्यायमूर्ति दीपांकर दत्ता एवं न्यायमूर्ति डी.पी. डे ने न्यायाधीशों की नियुक्ति में हो रही देरी पर कहा कि इस न्यायालय के लिये अनुमोदित न्यायाधीशों की संख्या 72 है, जबकि वर्तमान में मात्र 34 न्यायाधीश हैं जो कि अनुमोदित संख्या के 50 (पचास) फीसद से भी कम है। न्यायालय ने केन्द्र से यह भी सवाल किया कि क्या लोकसभा व विधान सभाओं के आधी संख्या पर काम करने के बारे में सोचा जा सकता है? न्यायमूर्ति ने अपनी माँग को अविलम्ब दूर करने के लिये अपने आदेश को केन्द्रीय विधि मंत्री तक पहुँचाने का आदेश न्यायालय को दिया।

अतः सरकार, न्यायपालिका एवं विधायिका को विचार करना होगा कि मुकदमों की बढ़ती संख्या को कैसे दूर किया जाय और आम जनता को न्याय कैसे शीघ्र दिलाया जाय। ■