

NUJS Journal of Regulatory Studies

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Adak & Dr. Santanu Panda

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Centre for Regulatory
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Comments and contributions are sought from academicians, lawyers, students and professionals. These should be sent to the Editor at the following address:

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Message from the Vice-Chancellor



The NUJS Journal of Regulatory Studies has been conceived as a premier journal for publication of research in the field of law and public policy. In an increasingly data driven world, public policy oriented research centred on thorough theoretical concepts with the analysis of empirical data is imperative. This journal aims to provide a platform for innovative researchers whose data driven research creates knowledge that is conducive to the creation of long term strategies and goals for policymakers in India and abroad.

The Centre for Regulatory Studies, Governance and Public Policy (CRSGPP) actively engages stakeholders for the formulation, analysis and oversight of public policy. This journal reflects the

ethos of CRSGPP and reflects its commitment to democratic values, academic excellence and legal research of contemporary relevance.

The Journal presently publishes articles on issues of national and international relevance in consonance with the aforementioned objectives. I hope that CRSGPP continues to enlighten the legal fraternity, policymakers as well as members of the public as it continues its journey of excellence and innovation.

-Prof. (Dr) N.K. Chakrabarti

Editor's Note



The NUJS Journal of Regulatory Studies started its journey in 2016 to promote legal research focusing on policy formulation. In 2019, the journal gets a new dimension with the priority inclusion of cutting edge empirical research papers from across Asia.

The new board of editors accompanied by a robust peer review team gives the journal the much needed international status. Additionally, the new shape of this open access online journal authorizes the access of the entire edition as a single file.

The journal explores through its research papers the various challenges and highlights various human rights issues. The platform of NUJS Journal of Regulatory Studies provides the young minds to find solutions beyond convention and also gives the right impetus to the centre to explore avenues to recommend such policy formulation to the concerned forum.

I am really thankful to the authors for such vivid contribution. I also take this opportunity to thank the esteemed members of the Advisory Board, Editorial Board, Peer Reviewers and my entire team who has worked relentlessly to finish the work in time.

-Dr Shambhu Prasad Chakrabarty
Head and Centre Coordinator

Impact of midday meal programme among the primary school going children: a Comparative Nutritional study

Suchorita Ghara, Kabita Jana, Rubi Adak & Dr. Santanu Panda

Abstract

Nutrition is the science that interprets the interaction of nutrients and other substances in food in relation to maintenance, growth, reproduction, health and disease of an organism. It includes food intake, absorption, assimilation, biosynthesis, catabolism and excretion. Nutritionist and dieticians are health professionals who create diets for people. Teaching patients about health eating is a primary duty, as well as staying aware of developments in medicine and nutrition. However, there is a difference between dietetics and nutrition: **dietetics focuses on food management**, whereas **nutrition focuses on the promotion of health through healthy food**. So, without fieldwork community nutrition assessment is not possible. The National Programme of Nutritional Support to Primary Education which is popularly known as the Mid-day Meal Scheme was launched by the Government of India in 1995 with the objective of giving a boost to universalisation of primary education by increasing enrolment, attendance and retention and simultaneously improving the nutritional status of students in primary classes. It is the flagship programme in

India to reduce malnutrition and mortality rate as well as enrich the enrolment of schooling. The study revealed that now a day in tribal village's mid-day meal is very much important to prevent under nutrition and malnutrition. Protein Energy Malnutrition (PEM) is the most important nutrition problem globally which is more severe in third world countries affecting children of 20-80 percent of primary school going are suffering from nutritional deprivation. Most of the tribal families are belonging to Upper Lower (IV) socio-economic class, whereas among the non-tribal are Lower Middle (III) socio-economic class. It is concluded from the study that the nutritional status of Lodha tribal children of Paschim Midnapur is very poor. Nutritional statuses of Non-tribal school going children are better than tribal but still both are not consume enough nutrients according to their requirement. Both tribal and non-tribal suffered under weight, some of them are suffering malnutrition.

Keywords: Mid-day meal scheme, nutrition, universalisation, CARE

Introduction

Historical background of mid-day meal programme

Midday meal programme is the popular name for the school meal programme in India. It involves provision of lunch/snacks/meal free of cost to school children on school working days.

The key objectives of the programme are:

- ❖ Protecting children from classroom hunger,
- ❖ Increasing school enrolment and attendance,
- ❖ Improving socialisation among children belonging to all castes,
- ❖ Addressing the issue of malnutrition among children and
- ❖ Social empowerment of women by creating employment.

Mid day meals, as a public welfare concept in India, dates back to 1925 when such a project was launched for the underprivileged children in the then Madras Corporation area. One of the pioneers, Madras Corporation started providing cooked meals to children in Corporation schools in the Madras city; the programme was later introduced on a larger scale in 1960s. Tamil Nadu's mid-day meal programme is among the best known in the country. The programme was introduced at a national level by the government of India in the late 50s and early 60s and later in the 80s as a centrally sponsored programme. Besides Madras, several other states/cities of India too have had the mid-day meal programme prior to the Government of India's initiative. In 1928, Keshav Academy of Calcutta introduced compulsory Mid-Day Tiffin for school boys on payment basis at the rate of four *annas* per child

per month. A school lunch programme was started in parts of Kerala in 1941; followed by Bombay implementing a free mid-day meal scheme in 1942, who with UNICEF assistance distributed skimmed milk powder to children aged between 6-13 years. Another project was launched in Bangalore city in 1946 where the scheme provided cooked rice with curds to the children. In 1953, Uttar Pradesh Government introduced a scheme, on voluntary basis, to provide meals consisting of boiled or roasted or sprouted grams, ground-nut, puffed rice, boiled potatoes or seasonal fruits. Several states introduced such schemes during 1950s, with the aid of international agencies like the UNICEF, FAO and WHO. An Expanded Nutrition Programme was launched jointly by the Government of India and the FAO, WHO, UNICEF during 1958-59, which subsequently developed, into the Applied Nutrition Programme (ANP). Under this, demonstration feeding programmes for the school children wherein nutritious food was cooked by the women groups and fed to the children under the nutrition education component. [1, 3]

The idea of a National Mid-Day Meal Programme had been considered again and again for over a decade. In 1982, the idea of 'Food for Learning' with FAO commodity assistance was mooted. Scheduled Caste (SC) and Scheduled Tribe (ST) girls were to be covered under this programme.

In 1983, the Department of Education of the Central Government after inter-ministerial consultations, prepared a scheme as per the guidelines of the World Food Programme (WFP).

According to this scheme 13.6 million SC children and 10.09 million ST girls in classes I-V were to be covered in 15 states and 3 Union Territories, where the enrolment of SC /ST girls was less than 79 percent. The proposal was circulated among states and Union Territories (UTs). While many states expressed their willingness to implement the programme, others reported that there were some practical difficulties in implementing a mid day meal programme meant exclusively for SC and ST children particularly continuing when WFP assistance was withdrawn.

A programme with Central Government assistance for mid day meal for the benefit of children enrolled in primary schools throughout the country was considered during 1984-85, the rationale for the programme were:

- ❖ The Mid Day Meal Programme for primary schools could form the basis of an anti-poverty educational programme.
- ❖ Implementation of this programme for the children aged between 6-11 years may maximize enrolment and reduce school dropout rates, which were important from the viewpoint of universalisation of elementary education as well as achievement of higher literacy rates in the country. [2]

The broad features of the programme were

- ❖ Supplying of food items providing 300 calories per day and 12-15 g protein per child with coverage of primary school children in a phased manner.

- ❖ Expenditure per child per day including expenses on administration to be 60paise.
- ❖ No elaborate administrative infrastructure to be built up.
- ❖ Funds required for the programme to come from provisions marked for poverty alleviation scheme.
- ❖ States should evolve suitable logistics and make arrangements for cooks, helpers, administration, supervision and monitoring.

In December 1988, the Department of Education formulated a proposal for covering 994 ICDS blocks with concentration of SC/ST children @ Rs.1/- per child per day. The important element of this scheme was:

- The scheme should cover all children in primary classes in government and local body schools.
- Mid day meals should be provided on all working days.
- CARE assistance, if any, should be excluded.
- Cereals and to the extent possible pulses, edible oils and condiments should be supplied to the schools through authorized state agencies.

In 1990-91, seventeen State governments were implementing the programme for primary school children between the age group of 6-11 years with varying degrees of coverage. Twelve states namely Goa, Gujarat, Kerala, Madhya Pradesh,

Maharashtra, Meghalaya, Mizoram, Nagaland, Sikkim, Tamil Nadu, Tripura, and Uttar Pradesh were implementing Mid Day Meal Programme from their own resources. In three states namely Karnataka, Orissa and West Bengal, the programme was implemented partially with assistance from CARE. As reported by Ministry of Human Resource and Development, thirteen States and five Union Territories were administering mid day meal programme as of December 1994. [1, 4]

- Improve nutritional status of the primary school children and
- Inculcate good food habits in children.

The programme envisaged the provision of cooked meals/ processed food of calorific value equivalent to 100g of wheat /rice for children studying in classes I-V in all Government, local body and Government aided primary schools free of cost. This recommendation was based on a study done by NNMB (1990-92) on dietary consumption patterns of rural children using a one-day 24-hour recall method. It was observed that the children had a deficit of the magnitude of 628 kcal and 6-7g protein in the daily diets. From the nutritional angle, the endeavor should be to bridge the average nutritional gap of 600 kcal through a balanced diet of cereals, pulses, fats and vegetables; the cereal component could be to the order of 60-90 percent of the calorie deficit or roughly 100g of food grains / child / day.

The programme which started in August 1995 has seen all India coverage in 1997-98 and the coverage of children under the programme has increased from 3.4 crores in 1995-96 to 10.5 crores in 2003-04 in about the same number of schools. However there were a lot of variations over the years with regard to implementation.

The coverage of more than 12 crore children in rural and urban areas under the scheme makes the mid day meal programme one of the largest nutrition support schemes in the world. [2, 3]

Midday Meal Programme (MDMP) is also known as school lunch programme was launched by

The present scenario of the Programme

MDMP - 'Nutrition Support to primary education' is considered as a means of providing free and compulsory universal primary education of satisfactory quality to all children below the age of 14 years.

A National Programme of Nutritional Support to Primary Education commonly known as MID DAY MEAL PROGRAMME (MDMP) was re-launched by the then Prime Minister of India on 15th August 1995. It was aimed at improving enrolment, attendance and retention, while simultaneously improving the nutritional status of students in primary classes. Universalisation of primary education being our national goal, MDMP was launched with the following objectives:

- Increase enrolment, improve school attendance as well as retention,
- Promote social integration,

Ministry of Human Resource Development during 1955-1996 by Madras State in order to compact malnutrition and improve the health status of student of primary school. It was operated as nutritional supplementary programme in all over the advance countries since 1962-1963. Those who can afford it may bring their lunch packets from home and during lunch hours take their meal in school.

The Specific Objectives of the Programme are

- To improve the nutritional status of primary school children belonging to low socio-economic status
- To attract school enrolment and regular attendance and
- To impart nutrition education by providing a free meal in the school to serve as supplementary nutrition.

The beneficiaries under the programme are the primary school children (6-11) years of age. The specific activities carried out under the scheme are to provide ready to eat food. The programme provides a free meal having 300 Kcal and 10-15 gram protein per day for 210 days in year. Under the programme there is provision of cooked meal or processed food for children in class 1-V in all government added primary school. One of the school teachers is assigned the responsibility for implementing to the state for financial support and implementation, the programme became irregular. In view of the inadequate production and storage of the food grains in the countries, Prime Minister launched a central scheme on 15th August, 1995 to provide nutrition support to primary school children. The objectives and operations of the

MDMP remind the scheme. Under the programme central assistance is available for reimbursement of cost of food grain and transport charges from Food Corporation of India good own to school but the government of India pays 40% of total expenditure and 60% of borne by state. Wheat or Rice 3 Kg per month per children is distributed where arrangements for provision of cooked meals have not yet been made.

The number of the children covered under this programme had increased for 33.4 million in 1995 to 1996 105.1 million and spread in 79,200 schools covered 576 districts in 2001-2002. Evolution by agencies has shown that this scheme had improved the schools enrolments. The concept of midday meal has a long history in India. In 1925 a meal programme was induced for children belonging to poor socio-economic status in Madras Corporation Area (Nandi Foundation-2006). In 1928 Keshab Academy of Kolkata introduced compulsory midday Tiffin for school boys on payment basis at the rate of 4 annas per child per month. Thereafter in 1950, many state governments came to introduce the MDMP with assistance of different international agencies like- UNICEF, FAO, WHO, CARE (Cooperative for American Relief Everywhere) etc. also came forward to assist in this programme (1991).

In 1990-1991 a few states such as Tamil Nadu and Gujarat already provided cooked midday meal in primary school before the Supreme Court order (November 28, 2001). Other states were just providing "dry rations" (usually 3 Kgs of grain per child month) under the national programme of

nutritional support to primary education initiated in 1995. [4]

Under the programme, state government were actually support to start cooked midday meal. But most of them never went beyond “dry rations”, until the Supreme Court intervened. After 2001, 17 states government was implemented MDMP for primary school children between the age group 6-11 years varying degrees of coverage. 12 states namely-Goa, Gujarat, Kerala, Madhya Pradesh, Maharashtra, Meghalaya, Mizoram, Nagaland, Sikkim, Tamil Nadu, Tripura and Utter Pradesh were implemented the MDMP from out of their own resources. In three states namely-Karnataka, Orissa and West Bengal, the programme was being implemented partially from out of their three own resource and partially with the assistance of CARE. Two states- Andhra Pradesh and Rajasthan were running the programme only with CARE assistance. [5]

According to information revolved form the planning commission, 13 states and 5 Unions were administrating MDMP as of 31st December 1994. In all, 20.481 million children, Tamil Nadu covered 36.16 per cent of all coverage in the country and West Bengal coverage 17.57%.

Objectives of School Health Programme:

1) About the programme

MDMP is the popular name given to the national scheme launched on 15th August 1995. A combination of factor made the programme possible, it was through that a meal of lunch time would benefit children and the expert felts that it was important to link primary education with nutrition.

In 1956, the Chief Minister of Madras, K.K. Kamraj set up a ‘poor feeding’ programmed and in 1982, the Chief Minister of Tamil Nadu, M.G. Ramchandran, set up a scheme called the ‘nutritious meal programme’. In a historic order 28th November, 2001, the Supreme Court of India directed all state government to introduce cooked midday meal in primary school within 6 months.

Objectives of the programme have both health and educational objectives, there are

- To improve the nutritional status and the attentiveness of school children attending primary section (I-IV).
- To attract more children for admission to the schools and retain them so that the literacy improvement of the children could be brought about.

2) The Supreme Court Direction:

In April 2001, peoples union for Civil Liberties initiated the now famous **right to food litigation**. The **public interest litigation** has covered a large range of issues relating to right to food, but the best known intervention by the court is on midday meal. Is one of its many direction to litigation the Supreme Court directed the government to fully the implement its scheme of providing cooked meal in primary school. The landmark direction converted the midday meal into a legal implement the violation of which can be taken up in the court of law. The direction and further follow up by the Supreme Court has been a major instrument universally the scheme.

3) School Health Programme:

School Health is a important branch of community health. According to modern concept, school

health programme is an economic and powerful means of raising.

Objectives of School Health

Programme:

The objectives of school health programme are as follows:

- The promotion of positive health
- The prevention of diseases
- Early diagnosis, treatment and follow up defects
- The provision of healthful environment

Aspects of School Health Programme:

The task of school health programme is manifold and varies according to local priorities where resource are plentiful, special school health services may be developed. The main aspects of school health programme are as follows:

- Health appraisal
- Health education
- Environment consciousness

3.1) Mid-day Meal Programme:

The mid-day meal scheme is the popular name of school meal programme in India. It involves provision of lunch free of cost of school children on all working days. The key objectives of the programme are

- Protecting children from class room hunger
- Increasing school enrolment and attendance
- Improved socialization among children belong to all casts
- Addressing malnutrition and

- Social empowerment through provision of employment to women

3.2) Objectives of the Programme:

The major objectives of the programmes are

- to attract more children for admission to the school and retain them so that the literacy improvement of the children could be brought about
- to improve the nutritional status of children attending primary school

3.2.1) Beneficiaries of the Programme:

Children between 6-11 years attending elementary or primary or schools the beneficiaries of the programme.

3.2.2) Organization and Implementation of the Programme:

- the feeding is usually carried out within the school premises. The school teacher is responsible for the preparation and distribution of food and maintain of records such as- food stock register, health cards, attendant register relevant to the programme.
- The programme is operated by the education department. Special provisions are made to meet the cost of fuel. Condiments and incidentals
- Mid-day meal programme become part of the minimum needs programme in the Vth 5 year plan. The Government of India 40% expenditure and 60% is borne by the States. The responsibility of implementing

of the programme is with the state government.

3.2.3) The norms & coverage of the Programme:

The scale of the food stuff prescribed per student per meal as under

- Rice – 125 gms per student per day
- Dal – 15 gm per student per day
- Oil – 1 gm per student per day
- Salt-2 gm per student per day
- Veg. Per condiment Rs. 0.09 per student per day
- Fuel & Stationary – Rs. 1.30 per student per day
- Honorarium to cook – Rs. 200 per month
- Honorarium to helper-Rs. 100 per month

Mid-day Meal Programme in West

Bengal:

4.1) Number of District/Block/Schools/Children covered presently-

- 18 districts including Kolkata
- 26,21,000 beneficiaries for districts and 2,20,000 beneficiaries for Kolkata under broad programme
- 3,45,000 beneficiaries for rural areas of districts

4.2) Identification of the target group-

- School children at the primary level

4.3) Implementing Agencies: Which department Education/Welfare/Panchayat

- School education department

4.4) Community Support-

- Involvement of the Gram Panchayat in cooking the food and distributing the same from the kitchen, individual health towards procuring fuels etc.

4.5) Additional Staff for the Programme at the staff level/at the district level/block level/school level

- At the state level and at the district level only by the way of creation of posts of supervising/ministerial and group D staff-
- No additional staff for the block/school level

4.6) Problem in implementation:

- Flows of funds indicate in the past year resulting in cut in feeding days funds are not available since 1991-1992. Additional staff at the state level and the district level for implementation of school nutrition scheme has been left without work for years together. [6]

Sarva Shiksha Abhiyan

As per 86th amendment of constitution of India to get free and compulsory education from the government school is the fundamental rights of children of 6-14 years age group. SarvaShikshaAbhiyan (SSA) is Government of India's flagship programme attempted to achieve Universalization of Elementary Education (UEE) in a time bound manner as mandated by the constitution. To address the needs of 192 children in 1.1 million habitations the central government in partnership with state government is implementing this program since 2000-2001 (SarvaShikshaAbhiyan, 2015).

The program focuses on opening new schools in the areas where there are no schools along with strengthening infrastructures and other facilities in existing schools like building additional classrooms, providing additional teachers, trainings to teachers, providing drinking water facilities etc in block as well as in district level. In this digital era, SSA focuses upon building additional skills of children with special care to girl's education and children with special needs [7]

Rastriya Bala Swasthya Karyakram(School Health Program) Under this program all the students from 1-10 studying in Government and Government aided and unaided schools are subjected to health check up by the PHCs⁵ and Government hospitals doctors. It was started since 2006-07 and is being carried out throughout the nation in cooperation with the Department Health and Family Welfare. In case of detection of serious health problems children are given with special medical treatment free of cost. Under this program 108597 children of 1933 schools are covered up to Dec 31st 2014 in Karnataka [8, 9]

1.1. The Importance of Nutrition in human health

The importance of good nutrition is nothing new. Back in 400 B.C., Hippocrates said, "Let food be your medicine and medicine be your food." Today, good nutrition is more important than ever. At least 4 of the 10 leading causes of death in the U.S. — heart disease, cancer, stroke and diabetes — are directly related to the way we eat; diet is

also implicated in scores of other conditions. But while the wrong diet can be deadly, eating right is among the cornerstones of health.

Of course, food alone isn't the key to a longer and healthier life. Good nutrition should be part of an overall healthy lifestyle, which also includes regular exercise, not smoking or drinking alcohol excessively, stress management and limiting exposure to environmental hazards. And no matter how well you eat, your genes play a big part in your risk for certain health problems. But don't underestimate the influence of how and what you eat. You may be genetically predisposed to diabetes, but keep your weight within a healthy range through diet and exercise and the disease may never strike you. The keys to good nutrition are balance, variety and moderation. To stay healthy, your body needs the right balance of carbohydrates, fats, and protein — the three main components of nutrition.

1.2. Concept of Anthropometric variables

Anthropometry is the general tool for defining overweight and obesity with body mass index (BMI; kg/m^2) as the most common variable, using sex and age-adjusted cut-offs for children. We rely on BMI in identifying overweight, but the accuracy of BMI in predicting overweight and obesity varies with degree of fatness, with a high accuracy in fat children, less so in thin children. Annual increases in BMI during childhood have been shown to be attributed to increases in lean mass more than increases in fat mass, but varied according to sex and age. Hence, changes in BMI percentile do not necessarily reflect changes in

adiposity in children over time, especially not in children with lower BMI values. Waist circumference (WC) as well as waist to height ratio (WHR), have been shown to correlate with amount of abdominal fat, as well as cardiovascular and metabolic risk factors (Blucher et al., 2013; Grober-Gratz et al., 2013). Skinfolds in various combinations have proven to correlate with adverse health risk, as well as being able to predict % body fat better than BMI (Brambilla et al., 2013; Nooyens et al., 2007). During childhood and adolescence, the ratio between the upper and the lower body segment changes considerably, and especially during adolescence growth of the lower segment tends to precede the growth of the upper segment by several months.

In spite of available BMI definitions, a major concern regarding the overweight epidemic among children is the inability of parents, as well as healthcare workers, to recognize that a child is overweight. Several studies have demonstrated that parents in general underestimate their child's weight, and that the age and sex of the child affect their judgments. This is especially evident among the youngest children (He and Evans, 2007; Juliusson et al., 2010b). The same applies to healthcare workers (Isma et al., 2012; Turner et al., 2009). This is serious, as obesity tracking throughout childhood represents a consistent predictor of adult metabolic risk (Janssen et al., 2005).

Relation between anthropometry and nutritional status

The relative merits of anthropometric measurements commonly used in nutrition

surveys and the interrelationship between the various measurements were assessed using data obtained on 3,100 preschool children surveyed in some rural areas in and around Hyderabad City. Children of each age (1 to 5 years) and sex were classified into three groups: normal, without any nutritional deficiency signs; PCM, children suffering from protein-calorie malnutrition; and children showing signs of vitamin deficiencies.

The relative importance of various anthropometric measurements was assessed in these three groups of children through comparison of their median values and correlation coefficients between anthropometric measurements. A close relationship was observed between severities of protein-calorie malnutrition on the one hand and weight, weight-height, and calf circumference on the other. The measurements of children with signs of vitamin deficiencies and of normal were similar. Sex and age did not seem to modify the relationship between the different anthropometric measurements. The indices, weight-height² and weight-head circumference, based on the linear relationship between weight, height, and head circumference, were found to be independent of age and sex in normal children. Of these two, weight-height² was significantly lower in children with PCM but not in children with signs of vitamin deficiencies. The ratio showed a close association with other measurements, which are accepted as reflecting protein-calorie nutritional status.

The suitability of this index for detection of early cases of protein-calorie malnutrition in field

studies, where determination of age is not always possible, is discussed.

Why anthropometry is important to study of nutritional status

Anthropometry (the use of body measurements to assess nutritional status) is a practical and immediately applicable technique for assessing children's development patterns during the first years of life. An evaluation of their growth also provides useful insights into the nutrition and health situation of entire population groups. Anthropometric indicators are less accurate than clinical and biochemical techniques when it comes to assessing individual nutritional status. In many field situations where resources are severely limited, however, anthropometry can be used as a screening device to identify individuals at risk of under-nutrition, followed by a more elaborate investigation using other techniques. Similarly, growth monitoring permits the detection of individuals with faltering growth, who can then be appropriately referred to specialized care. Thanks to the standardization that has taken place in recent years, changes in trends over time with respect to the nutritional situation can be evaluated in countries where national food and nutrition surveillance systems have been developed, or where nationally representative cross-sectional surveys have been conducted some years apart using identical, or nearly identical, methodologies. Although data that can be used to evaluate trends are limited, some insight can be gained into the nutritional situation and changes occurring over time in a number of countries.

Earlier study done by some eminent scholar

Literature review is the root of any scientific research and review. The literature have own confidence to support any empirical study which has some descriptive and or statistical aspect. The literature review has been search through internet, pub med, J. store, journals, magazines and books.

Anational level study has been done by Christie et.all to know the impact of Mid-day-meal programme in Karnataka, India. This study has been published in an international journal of current research and academic review. The study revealed that the introduction of MDM there was a reduction in the proportion of children withstunting as well as a reduction in the proportion of children with both grades 3 and 4 under nutrition. Secondly, under nutrition among girls was high both before and after the introduction of MDM. And thirdly, the improvement in the nutritional status after the introduction of MDM was more among girls when compared to boys in a majority of the age groups. [5]

The national level study has been done by NidheeSachan and Rashmi Singh on impact of mid-day meal scheme among the children in relation with nutritional status at Kanpur district in UP. The study revealed that Results of the study indicated that the nutritional status of MDM children. The reason for poor result for schools providing Mid Day Meals could be irregular attendance of children in school, less amount of Mid Day Meal, poor of food items in Mid Day Meals, combined teaching of different standard, lack of class room etc. All these parameters need to be further studied and evaluated for these

impacts on academic achievement. Results of the study indicated that the nutritional status of MDM children. The reason for poor result for schools providing Mid Day Meals could be irregular attendance of children in school, less amount of Mid Day Meal, poor quality of food items in Mid Day Meals, combined teaching of different standard, lack of class room etc. All these parameters need to be further studied and evaluated for these impacts on academic achievement. The conclusion of the study shows a compare in relation with ICMR of the impact of mid-day meal programme. [6]

A National level study has been done by Bhawna **Mehta et. all** on Nutritional Contribution of Mid Day Meal to Dietary Intake of School Children in Ludhiana District of Punjab **to know the impact of MDMS in rural and urban school. The study revealed that** the diet of school going children was deficient in all the food groups ultimately resulted in the low intake of all the nutrients. Mid-day meal programme has been found to be a substitute rather than a supplement for the home meal. It provides nearly one-fourth of energy and fat and half of protein towards daily nutrient intake of children but only meets the one-fifth of energy and one-third of protein towards the recommended dietary allowances. The contribution of micronutrients through mid day meal programme was negligible; it varies from one-fifth to one-fourth. [7]

A field based study done by Delhi Municipal Corporation in the several schools in New Delhi region but the study revealed that

- Municipal Corporation of Delhi CD must continue to put MDM Programme on top of their agenda.
- Stockholder's collaboration is a must.
- Simple monitoring and evaluation system required.
- Good management practices, forward planning and adequate flow of finances are essential.
- Educability must go hand in hand with education.
- Field Experience and capacity building from top down is most important.
- The state must take care of the health / nutrition of ~ 90% children in the classroom who are in need of additional support.

Some recommendation has been given for better implementation of the MDMP in Delhi.

The following were the recommendations:

- Onsite training to include all food handlers.
- Reinforcement of training.
- Periodic monitoring to check adherence to standards.
- Maintenance of standards in unit as measure of efficiency.
- Strategy plan for better transportation of food.
- Orientation and better participation of Teachers in MDMP.
- Better facilities to be provided in school for distribution.

- Incentives for well maintained units. [10]

Effect of mid-day meal on nutritional status of adolescents: A cross-sectional study from Gujarat, a national level study has been done by Prerna P Patel et. al, the study revealed that the Healthy comparison group in the study showed better nutritional status than MDM receiving adolescents. Although MDM program restricted the percentage of stunting to some extent among MDM receiving adolescents, the percentage of wasting was critical in terms of public health significance. MDM receiving adolescents were still vulnerable to energy, protein, and micronutrient deficiencies. Our study shows that though the MDM program acts as a supplement, however, it is not the sole source of RDA. Thus, there is an urgent need to reassess the MDM program, in light of findings of the present and similar studies. [11]

An international study has been done by some eminent scholar in reputed international journal on impact of Mid-Day-Meals programme on enrolment and retention of primary school children at Bolpur-Sriniketan block, Birbhum District. The study revealed that after the introduction of mid-day meals the percentage of enrolment has been increased. Parents are more interested to send their children. Due to the introduction Mid-Day meals percentage of retention has been increased. The headman has expressed their opinion in support of introducing of Mid-Day Meals scheme at the primary level. The Mid-Day Meals programme helps increasing

the attendance and enrolment of the poor students. The rural teachers and headman have unanimously positive attitude towards this Mid-Day Meals scheme. It is found that rural head teachers have showed favourable attitude towards introduction of Mid-Day Meals programme. [12]

A research scholar of Panjab University studied on mid-day meal scheme and primary education regarding the quality. The study revealed that the clients of government primary schools were the children who belonged to the poor families. Though, the objectives and potential benefits of the MDM scheme were mainly: increased enrolment, attendance and retention; improved child nutrition; and social equity. Though, the enrolment statistics have improved and the dropouts might have reduced however, quality in education and food has also decreased. Since, proper care is not being taken care while preparing the food and teachers are involved in various other duties. The quality has to be taken care in primary education in terms of class size, child-centred teaching process, and continuous assessment of learning of students and so on. After conclusion the author also has given some recommendation for the betterment of the supplement nutrition programme. We quote the author recommendation 'The recommended solution for these primary schools is to change the role of government sector in these programs. The preparation of food for the students should be contracted out to the non-government organizations. The negligence should result to the cancellation of the contracts. Further, the government's role should be more of monitoring and regulating these organizations. In

addition, midday meal scheme should be made available with the parent's representatives and teachers in the schools. This will help the teachers to bring back to their main work of teaching.' [13]

An evaluation study has been done by council for Social development sponsored by Meghalaya Government on mid-day meal programme in Meghalaya. The study revealed that the present evaluation study has tried to focus on the given assignment of evaluating the actual performance of the MDMS. It aimed to understand its process of implementation and its impact on beneficiaries in Meghalaya within a short span of 4 - 6 months. Although we were able to fathom the magnitudes of financial and administrative process and benefits perceived by the stakeholders at the local level, there are many aspects that remained untouched in current evaluation study. The scope of this study could be expanded to ascertain administrative and financial efficiencies (or the lack of it) and other aspects, more particularly the nutritional aspect, in much more detail. A separate and contextual study may be conducted to understand these aspects. In fact, a much larger study at the state level could be conducted that not only includes aspects not covered in this study , but also widens the sample size of schools, and stakeholders to get a much broader and representative picture of Meghalaya's MDM scheme on various dimensions. [14]

A research work has been published in collage Undergraduate Research electronic Journal at University of Pennsylvania. The research concludes that the purpose of this thesis is to explain how school meal programs can empower

children under the premise of rights-based empowerment. In such a setting, children, teachers, and staff become more aware that children are the rights-holders with a legal entitlement to a right to food. A rights-based approach requires an environment in the lunch room conducive to uplift, human rights education, and an institutional way for students to voice their opinions. In Kent's advocacy for a rights-based approach to the MDM, he emphasizes that an institutional means should be set in place to ensure that children have a constant way of speaking out and providing their suggestions. Moreover, children should comprise the majority of participants in a School Meal Monitoring program [15].

A state level report of state council for educational research & training centre, Chhattisgarh on Study of Impact of Mid-Day Meal (MDM) Programme on School Enrolment & Retention has been pointed out some problem and prospect. The conclusion of the report is 'During interaction with DEO and BEO it was reported that under MDM programme, the Government is providing Rs. 3.92/student/meal to Primary School students while for Middle School students Rs.5.05/student/meal are provided. Apart from the money, rice is provided through Public Distribution System and honorarium to cook-cum-helper @ Rs. 1000/- per month is also paid. The per student allocation and honorarium was confirmed by the school level authority (teachers, principals and SDMC members) as well as by the Women Self Help Groups engaged in cooking and serving the food. The Women Self Help Groups

also confirmed that they are responsible for procuring of food items and provide cooked food to school students on regular basis as per the decided menu. The menu of MDM is decided in consultation with government authority by members of School Management Committee. The rice demand is generally assessed by the WSHGs and then indicated to the school Principal. The Principal then submits the demand to the BEO. The BEO places the online demand to DEO for approval. Once the demand is approved, the concerned WSHG collects the rice from PDS shop. However, Women Self Help Groups did complain about delay in release of funds and also in adequate release of funds. Due to fund issues WSHGs are unable to earn profit, but they are continuing because the program is benefiting their own children.[16]

Objectives of the study

Aims and objectives is an important part of any scientific study. The researchers conclude his research through this root or way. Primary School Children who are in the phase rapid growth and development are suffering from malnutrition specially protein energy deficiency disorder. Government is trying to provide them supplementary food as mid-day meal, so that they can combat with the malnutrition. So the objectives are focus on gathering the practical knowledge on the following points

- To study the health and nutritional status of primary school children

- Nutrition education by providing a free meal in the school to serve supplementary nutrition.
- To know the programme fulfils of the major objectives taken by the government to implementation the programme and how the mid-day meal objective are enhancing
- To study the nutritional status between tribal and non-tribal school going children.
- To study the problem faced by the student and government school for implanting of the programme.

Findings of the study

This study had a total of 44 school going students who participated in the present study, among them 44 tribal and 44 non-tribal children. The age & sex wise descriptive statistics anthropometric and in derived variables among the school going children. The present study revealed a high frequency of overweight among children. From the table 1 it has been noted that the mean age is 7.24 years among the tribal and 7.28 years among the non-tribal between two districts.

Table 1: Mean \pm SE value of age (year) among tribal and non-tribal children

Parameter	Tribal children mean age \pm SE	Non-tribal children mean age \pm SE
Age (year)	7.24 \pm 0.23	7.28 \pm 0.24

Table 2: Statistical Analysis of anthropometric parameter between Tribal and non-tribal school going children.

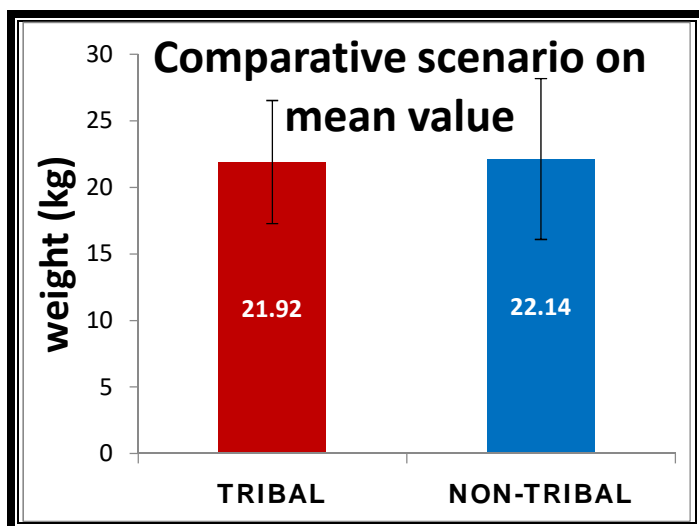


Fig.:1 Graphical representation of mean weight (kg) difference between tribal and non-tribal in school going children

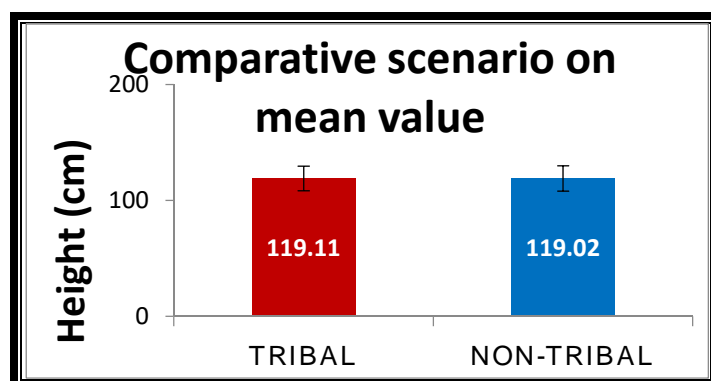


Fig.:2 Graphical representation of mean Height (cm) difference between tribal and non-tribal in school going children

Anthropometric Parameter	Tribal School going children			Non-tribal School going children			't' value
	(n=44)			(n=44)			
	Mean	SD	SE	Mean	SD	SE	
Weight (kg)	21.92	4.62	0.7	22.14	6.04	0.915	0.15
Height (cm)	119.11	10.71	1.62	119.02	10.86	1.639	0.49
BMI (kg/m ²)	15.16	1.42	0.219	15.77	1.88	0.284	0.04
MUAC (cm)	21.19	4.01	0.6	27.06	2.45	0.368	0.08
Waist circumference	61.13	1.64	0.205	61.94	7.16	0.707	0.15
Hip circumference	81.18	1.17	0.207	81.55	7.13	0.707	0.25
WHR	0.85	0.0078	0.0001	0.906	0.002	0.0003	0.36

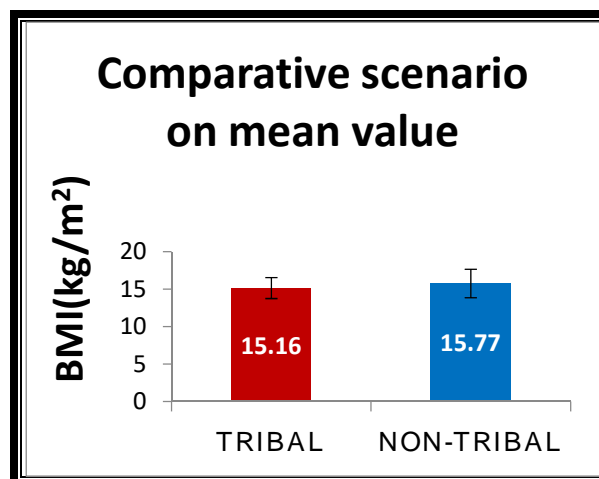


Fig.:3 Graphical representation of mean Body Mass Index (BMI) (kg/m²) difference between tribal and non-tribal in school going children

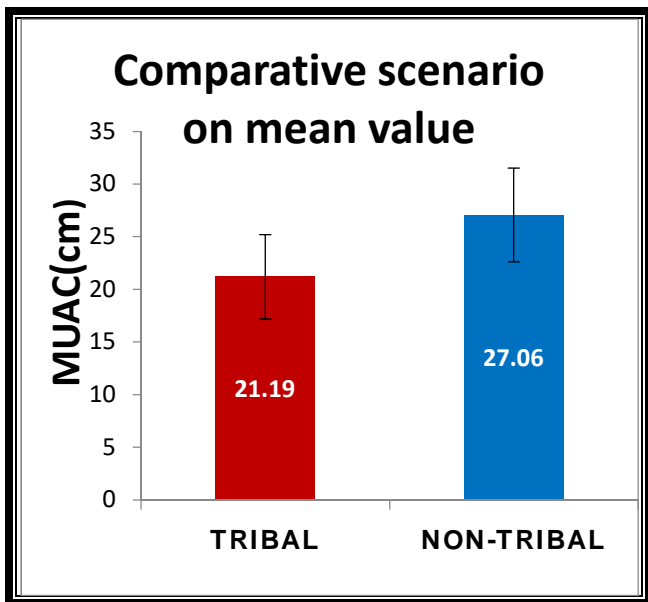


Fig.:4 Graphical representation of difference mean Mid Upper Arm Circumference (MUAC) (cm) between tribal and non-tribal school going children.

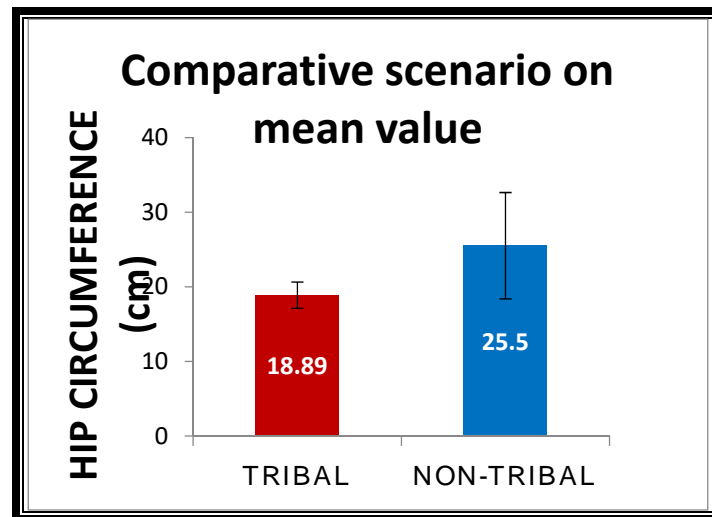


Fig.:6 Graphical representation of mean Hip circumference (cm) between tribal and non-tribal in school going children

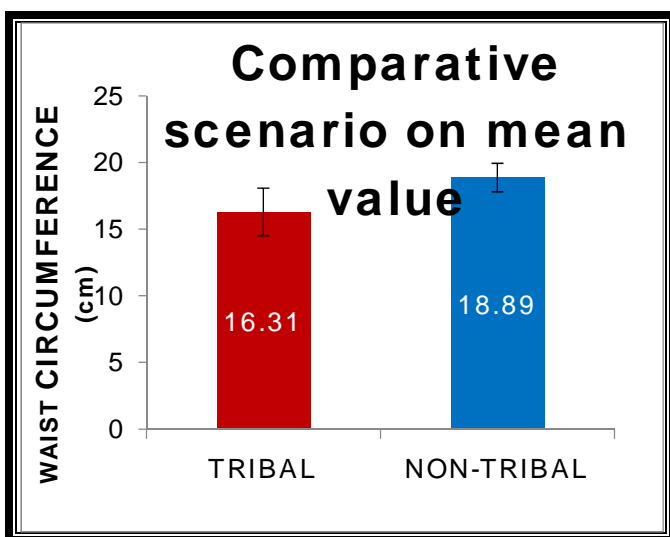


Fig.:5 Graphical representation of mean waist circumference (cm) difference between tribal and non-tribal in school going children

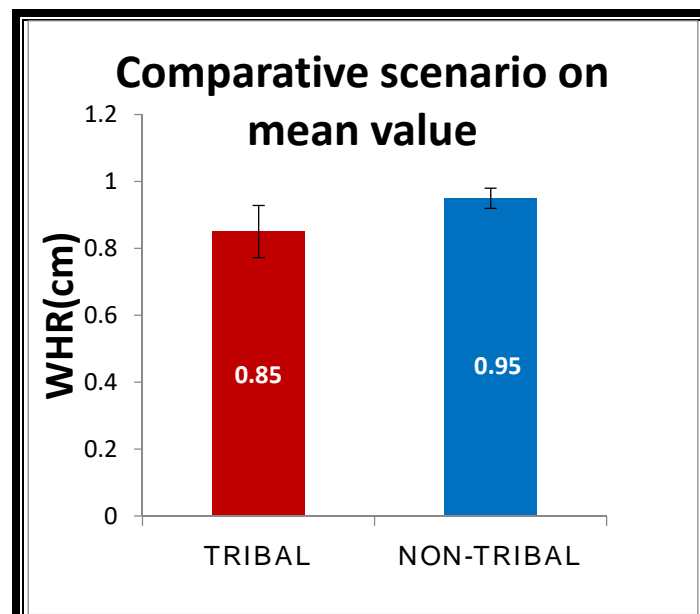


Fig.:7 Graphical representation of mean Waist Hip Ratio (cm) between tribal and non-tribal in school going children

Table.2. Comparative statistical value of Average consumed nutrients among tribal & non-tribal school going children

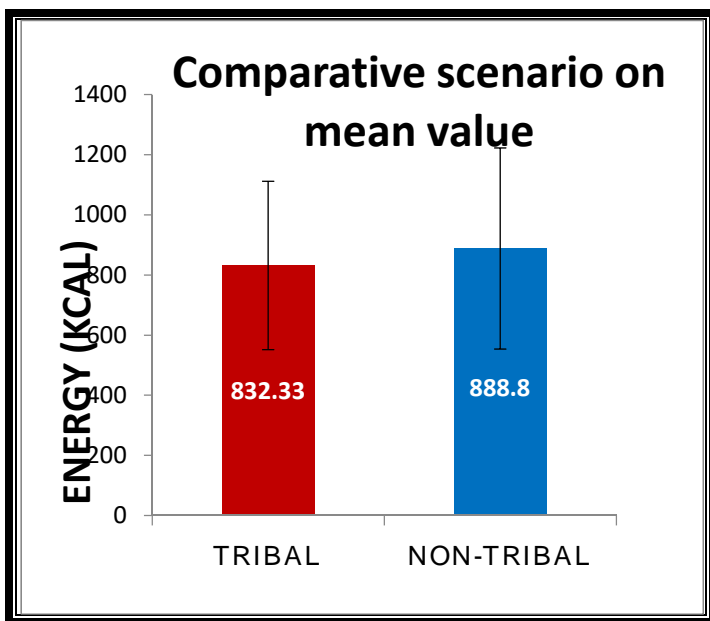


Fig.:8 Graphical representation of mean Energy (kcal) between tribal and non-tribal in school going children

Nutrient	Tribal (n=5)			Non-tribal (n=5)			't' test
	Mean	SD	SE	Mean	SD	SE	
Energy	832.33	280.20	125.65	888.8	334.18	149.85	0.47
Carbohydrate	126.30	19.34	43.14	132.96	54.44	21.41	0.43
Protein	32.01	10.73	4.81	35.74	11.41	5.11	0.41
Fat	18.82	7.58	3.39	26.97	9.98	4.47	0.39

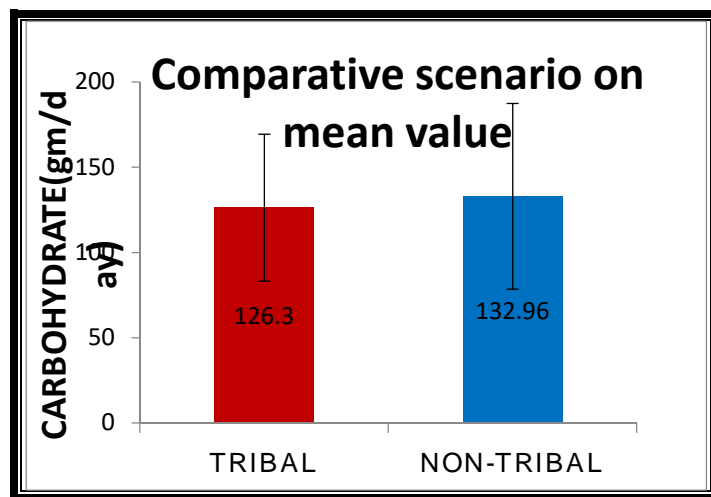


Fig.:9 Graphical representation of mean Carbohydrate (gm/day) between tribal and non-tribal in school going children.

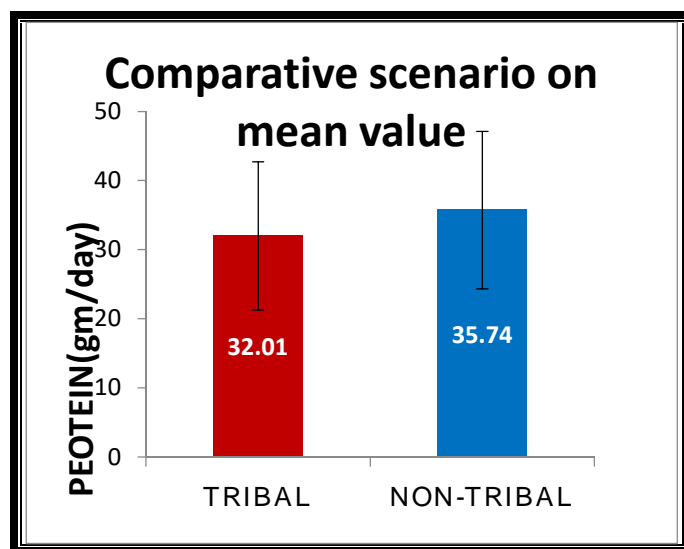


Fig.: 10 Graphical representation of mean protein (gm/day) between tribal and non-tribal in school going children

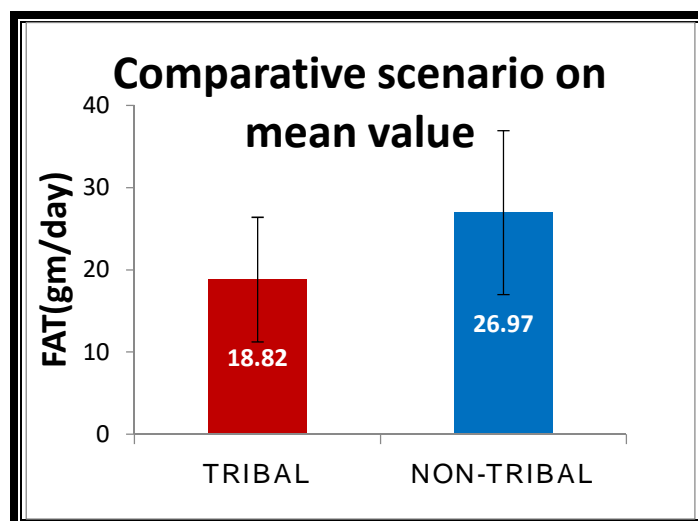


Fig.:11 Graphical representation of mean fat between two groups.

Discussion of the study

The present cross sectional study revealed that the tribal and non tribal school going children belonging to multi ethnic villages under Salboni block and Sahid Matangini block of East and West Midnapur to assess the nutritional status. The tribal and Non-tribal school going children were randomly selected, all together 88 school children (44 tribal and 44 Non tribal) of aged 5-12 years were studied. According to the constitution of India, all the children are given the right to get primary education. It is truth that still we had not get the hundred percentage success ratio but it is continuously developing. Government is implementing various initiatives and making so many efforts to enrol maximum number of students from the age group of 6 to 14. The Mid Day Meal is the world's largest school feeding programme reaching out to about 12 core children in over 12.65 lakh schools/EGS centres across the country. Mid Day Meal in schools has had a long history in India.

In all anthropometric variables shows through some graph that non-tribal school going children shows a better performance regarding weight, height, BMI, MUAC, WHR and nutrient consumption.

When we come into the specific anthropometric parameter like weight, height, MUAC, waist hip circumference, WHR have found that there is significant difference between two groups, the computed 't' value are 0.15, 0.49, 0.08, 0.15, 0.25, 0.36 respectively, But in case of BMI there is no

level of significance has been found between two groups, the computed 't' value is 0.04.

Similarly, in case of dietary intake energy, carbohydrate, protein and fat represent the significantly significant the computed 't' values are 0.47, 0.43, 0.41 & 0.39 respectively. In relation with RDA, I have found the tribal school going children and non-tribal school going consumption of nutrient are very low. Their BMI level is low than the RDA value. So, most of the studied children are belonging into the underweight category.

According to Bhawna Mehta, **The study revealed that** the diet of school going children was deficient in all the food groups ultimately resulted in the low intake of all the nutrients. Mid-day meal programme has been found to be a substitute rather than a supplement for the home meal. It provides nearly one-fourth of energy and fat and half of protein towards daily nutrient intake of children but only meets the one-fifth of energy and one-third of protein towards the recommended dietary allowances.

The specific causes of under nutrition in these children cannot be ascertained from this study. A lower socio-economic status of these children indicates that factors such as education, occupation and economic status of parents may be related to the under nutrition.

The reasons behind failure of MDMS are almost inclined upon the poor quality of food grain, ineffective management by school committee, lack of incentives to the cook cum helpers, upper castes opposition to *dalit* cooks, poor facilities in school like poor drinking water, unhygienic

toilets, delay in allocation of grain by the state government, lack of monitoring and evaluation by the responsible authority (Rama Mohan, 2014).

The present study, most of the tribal households had small size family, most of them were illiterates and they belonged to low income group. The selected children were shorter and lighter than the reference population and their food intake was also inadequate. Moreover deficiency symptoms such as brownish rough hair, anaemia, carries tooth and vitamin A deficiency disorders were seen in the selected tribal children. Majority of the tribal children showed poor growth pattern and they were not at all in good nutritional status.

Globally view that the public health hazards associated with under-nutrition and micronutrient deficiencies remain major public health problems. Therefore comprehensive health care of this section will fulfils the health need of these vulnerable populations.

Need for the research to improve the failure of MDMP

The reasons behind failure of MDMS are almost inclined upon the poor quality of food grain, ineffective management by school committee, lack of incentives to the cook cum helpers, upper castes opposition to *dalit*cooks, poor facilities in school like poor drinking water, unhygienic toilets, delay in allocation of grain by the state government, lack of monitoring and evaluation by the responsible authority (Rama Mohan, 2014). Most of the criticisms are made against two levels i.e either to central or state government or to the schools at ground level when there arise the discussions regarding the effective

implementation of MDMs however the issues with quality of food grains, quantity of food as well as regular supply/distribution of food in school may not always lies within the school level or at policy level if seen through the broader perspectives on involvement of various actors throughout the value chain. [17]

Despite of investing huge amount of funds and resources why the government is not able to achieve its target? Why there lie various complaints over the ineffective application of MDMS in India? Why the states are not able to reach to their goal besides taking multiple measures? What is happening with food grains during transportation and distribution process, inside storage as well as at schools and in schools kitchen? Are schools and schools staffs only the responsible actors for not meeting the quality as well as quantity of meals? Is it really important to do research upon the overall value chain? These all are the common questions that evolve when viewed from the perspectives of value chain process [18].

For example mid-say meal programme in Karnataka state, In context of Karnataka it has long history with Mid-day meal scheme since 1946 when the then state government started providing cooked rice and yoghurt to school children in Bangalore. Later in 1995, there was the provision of providing 3 kg of rice/wheat per month per child who had 80 per cent or more attendance. After 2002-03, it started spreading to each nook and corner of the state following the Supreme Court order of 2001. Till now it has undoubtedly improved the enrolment and

attendance of the children along with their nutritional status by reducing the malnutrition rate throughout the state; however there are so many incidences that proves irregularity in delivery of food grains to rural schools, irregularity in serving cooked meals at schools, delay in releasing funds at time, low quantity and quality of food being served to children, lack of infrastructures in most of the schools, no regular inspections from the higher authorities and very few or no participation from community members on day to day supervision during launch time at schools (19, 20).

The study concludes



Mid-day meal is the very essential supplementary food for the rural poor children in several rural schools. In India most of the family sent their children without food because during school time they did not prepare boiled rice. Most of the families went for day labour early morning, after returning from labour work at time of evening they prepared boiled rice for all family. So, now a day in tribal village's mid-day meal is very much important to prevent under nutrition and malnutrition. The motto of this programme was to achieve the physical development, protect from nutritional deprivation, achievement of school

attended, to set up parent, teacher and student relation. There is a growing concern over the child health all over the world with rapid economic growth and social change. Protein Energy Malnutrition (PEM) is the most important nutrition problem globally which is more severe in third world countries affecting children of 20-80 percent of primary school going are suffering from nutritional deprivation.

It is concluded from the study that the nutritional status of Lodha tribal children of Paschim Midnapur is very poor. Nutritional statuses of Non-tribal school going children are better than tribal but still both are not consume enough nutrients according to their requirement. Both tribal and non-tribal suffered under weight, some of them are suffering malnutrition. According to the Kupper Swami Scale 2019 the Socioeconomic Status Most of the tribal families are belonging to Upper Lower (IV) socio-economic class, whereas among the non-tribal are Lower Middle (III) socio-economic class.

It is also observed that poverty is not only the main reason of under nutrition but lack of nutritious food is also one of the big reasons of under nutrition in tribal areas. It is very important for our government to create awareness about affordable nutritious food products among tribal people. It is also important to impart knowledge to them about nutritive values of locally available food and about the kind of food and its amount which should be included in their diet. It is seen that they are used to eating large amount of rice and potato because of low prices but they can get green leafy vegetables also at cheap price.

Recommendation for proper nutrition

As a student of Nutrition science I think a proper counselling should be given to the tribal people who are belonging in poor economic condition to overcome the unhealthy nutritious food and meal pattern. The Indian government has taken steps towards providing nutritious food to school going children through mid-day meal scheme but the improvement in nourishment is still inadequate. The problem may lie in the implementation of such schemes, where preparation and distribution of food is not monitored and guidelines are not followed strictly. Moreover, the mid-day meal excludes the kids who do not go to school. The government should come up with programs which include such secluded population as well. Therefore to reduce malnutrition and or under nutrition among both community, it is essential to educate and create awareness programs at the community levels. Health education programs are urgently required to promote healthy eating and physical activity.



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Live-In-Relationship And Personal Laws: A

Contemporary Study

Wazida Rahman

Abstract

It is the duty of every nation to secure the social values as well as individual liberties. The enduring debate on live-in-relationship can never have a conclusive viewpoint as it keeps varying from time to time and new issues observance up. It creates chaos and conflict with religious and social ethics and legal lenience. The author analyses the position of live-in-relationship in the light of Hindu Personal Laws and Muslim Personal laws; and also discusses the status of persons involved in such relationship and legal effects and consequences of adopting such relationship in Indian social and legal system.

Keywords: *Social Values, Individual liberty, live-in-relationship, religious ethics, Personal Laws legal lenience.*

“Man perfected by society is the best of all animals; he is the most terrible of all when he lives without law and without justice”

-Aristotle

Introduction

Live-in-relationship is a relationship with an informal arrangement between two heterosexual persons to live together without entering into the formal institution like marriage. Live in relationship is a western concept and famous there. This is not a new concept in India though the name is imported

to India also. Live in relationship means, two persons of opposite sex live together with each other and perform marital activities without any religious sanctity means without proper marriage. The legal definition of live in relationship is “an arrangement of living under which the Couples which are unmarried live together to conduct a long term relationship similarly as in marriage”. Live-in-relationship is the arrangement in which a man and a woman live together without getting married. This is nowadays being taken as an alternative to marriage especially in the metropolitan cities. Currently the law is unclear about the status of such relationship though a few rights have been granted to prevent gross misuse of the relationship by the partners. Legalizing live in relationship means that a totally new set of laws need to be framed for governing the relations including protection in case of desertion, cheating in such relationships, maintenance, inheritance etc. Litigation would drastically increase in this case. The *Cambridge dictionary* defined it as; two people cohabit in the same house and have sexual relationship, but are not married. They often referred as live in partners. Though it is not a sin or crime in the eyes of the law but it is not acceptable in the society. The moral values and societal ethics are dominated and regulated mostly by religious tagging, so the personal laws having no scope to allow any theme

which is against the religious philosophy. The present article has analysed the position of live-in-relationship in Muslim Law and Hindu Law with contemporary study of present Indian legal system.

Status Of Live -In- Relationship Under Hindu Law

Centuries ago, civilized societies recognized and acknowledged the most basic instincts of all – i.e., the need for companionship – and founded an honourable institution known as marriage. Hindu ancestors set out some guidelines to make sure that the institution is a permanent one capable of not only bringing happiness to two young people but also providing a delicate balance so that the family enjoys the fullness of life within the framework of what they called Dharma, the Hindu code of right conduct.

This may sound like a newly discovered concept by modern psychologists but an ancient Hindu prince known as *Yudhishtira* revealed this “secret” about 4000 years ago. In an episode known as *Yaksha Prashna*, in the *Aranya Parva* of the great epic, the Mahabharata, one of the questions the *Yaksha* asked *Yudhishtira* was: “*kimsvinmitramgrhesatah?*” i.e. who is the friend of a householder? To which the prince answered “*bhaaryaamitramgrhesatah,*” i.e., the friend of a householder is his spouse. “The wife is half the man, the best of friend, the root of the three ends of life, and of all that will help him in the other world with a wife a man does mighty deeds, with a wife a man finds courage, a wife is the safest refuge. Evolution of Live-In Relationship in India marriage among Indians was quite low. A person was married at a very tender age and, her to enter into a live-in relationship. But marriage, there is abundant

opportunity for a person to live-in more and more economically independent.

The concept of live-in relationships is relatively new in India. In fact, India is still looked by the world as a country where marriage occupies a sacramental position both philosophically and practically. However, in the last five decades India has slowly opened its doors for western ideas and lifestyles and one of the most crucial episodes amongst it, is the concept of Live-in relationships. In ancient India, though the marriage was a general norm, the Hindu scriptures describe and admit the existence of premarital relationships as well. According to Manu, premarital relationships existed both in the Vedic period and afterwards, but was a rare occurrence.

According to *Dharmashastras* there are four goals of Human life, *Artha*, *Dharma*, *Karma* and *Moksha*, i.e., salvation is the ultimate goal. Prior to attainment of *Moksha* man has belong three other stages of human life, as a matter of fact; *Artha* and *Karma* are connected with this world, whereas *Dharma* and *Moksha* are connected with the next world. A life according with *Dharma* and *Moksha* are connected with the next world. A life according with *Dharma* leads to happiness and pleasure in this life also. To attain salvation Hindu Philosopher has divided the whole life into four *Ashramas*¹ as- *Brahmacharaya*, *Grihastha*, *Vanaprastha* and *Sanyas Ashram* and it has been considered that the average life of a human being was of hundred years and for each *Ashram* twenty-five years have been given. An individual can get salvation from this physical world by

¹ Patrick Olivelle (1993), *The Ashrama System: The History and Hermeneutics of a Religious Institution*, Oxford University Press, OCLC 466428084, pages 1-29, 84-111

performing the prescribed duties under these four Ashrams.²

The *Grihastha Ashram* is the second stage when an individual was expected to be married and to experience the pleasure of life through social participation. The two objects provided by the *Purushartha* theory³ as *Artha* and *Karma* were to be acquired in this Ashram. *Artha* means the acquisition of wealth and prosperity while the *Karma* means action, work or deed and it also includes enjoyment and pleasure, including the sexual enjoyment. These two objectives, *Artha* and *Karma* must be acquired simultaneously. In the *Shanti Parva* of the *Mahabharat* it is provided that: “of all the *Ashramas* however the *Grihastha-Ashram* is given a very high place of honour”.⁴

In *Grihastha Ashram* is subject to the condition that there should be a marriage and not illegal sexual relations without the marriage. The sexual relation without marriage is a sin and serious action against it has been taken by the Hindu philosophers. *Apasthamba* put marriage as was meant for doing good deeds and attainment of *Moksha*.

There are number of *Samskaras* that are to be performed during the course of human life, with the earliest being the *Pumsavana* and the last being the *Antyasamaskara*. According to *Manu*, the *Vivaha Samaskara* is the most important one.⁵

²RK Sharma (1999), *Indian Society, Institutions and Change*, ISBN 978-8171566655, page 28

³M Hiriyanna (2000), *Philosophy of Values*, in *Indian Philosophy: Theory of value* (Editor: Roy Perrett), Routledge, ISBN 978-0815336129, pages 1-10

⁴S. Garg, *Political Ideas of Shanti Parva*, *The Indian Journal of Political Science*, Vol. 65, No. 1 (Jan.-March, 2004), pages 77-86

⁵*Manusmriti*, III: 20

Darmasastras prescribe marriage for the attainment of three objectives in life i.e. *Dharmasampatti*, *Prajya* and *Rati*, and according to *Manu* the main aim of marriage was not the satisfaction of vernal desires but it was considered that a man as an individual only after he got married and his wife was described as other half of man. Apart from the attainment of the three objectives, the *Mahabharata* speaks of a fourth objective that is *Samajaruna* that is the discharge of one's duty towards the society which requires the presence of a wife.

The Supreme Court of India in *Kamesh Panjiyer V. State of Bihar*⁶ held that marriages are made in heaven, is an adage.

However in Live-in relationship usually refers to an arrangement whereby two people of opposite sex decide to live together on a short-term or long-term or on permanent basis in an emotional and or sexual relationship. In Hindu law no man and woman can have sexual intercourse outside the institution of marriage and these types of relations have been strongly condemned and serious punishment has been mentioned in the classical Hindu law. For instance adultery, *Manu* prescribed severe punishment for committing adultery with the wives of others: “Men who indulge in committing adultery with the wives of other, the King shall cause them to be marked by punishment such as cutting of nose and lips which cause terror, and afterwards banish them.”⁷

Further, *Manu* justified severe punishment for the offence of adultery: “Adultery carried mixture of

⁶(2005) 2SCC 388: 2005 SCC (Cri) 511

⁷*Manusmriti* IX : 9.

castes among men; hence follows sin which cuts up even the roots and cause the destruction of everything.”⁸

In case a wife become habitual offender and had a sense of pride in indulging in illicit sexual activities repeatedly, the punishment is severe: “A woman who neglects her husband and goes over to another man through pride consisting in the idea; I have several relations who are powerful and wealthy and I myself possessed of all the excellent qualities of a woman, such as beauty and love, why should I then mind my character, such a woman the king shall get devoured by dogs till she dies.”⁹

Presumption Of Marriage In Live-In-Relation Under Hindu Law

There is an extremely strong presumption in favour of marriage and legitimacy of its offspring. From the time of the alleged marriage, the parties are recognized by all persons concerned as husband and wife and are so declared in important documents and on important occasions. There are numerous cases to provide presumption to the living relationships as a marital tie in some circumstances. For that the researcher analysed the cases they are:

Delhi High Court in *Ashok Kumar v. Smt. Usha Kumari*¹⁰ held that if the parties are recognised as husband and wife, there is a strong presumption in favour of the validity of marriage and from ceremonies of the marriage and legitimacy of its offspring. After all, the rites and ceremonies

⁸Manu Smriti VIII: 353.

⁹Medhatih on Manu VIII: 371.

¹⁰ AIR 1984 Del.347

only serve to provide proof of marriage as registration does.

In *Madan Mohan Singh & Ors v. Rajni Kant & Anr*¹¹ Supreme Court held that the courts have consistently held that the law presumes in favour of marriage and against concubinage. So when a man and woman have cohabited continuously for a number of years it is presumed as marriage. However, such presumption can be rebutted by leading unimpeachable evidence.

Maintenance Right Of Live-Partner In Hindu Law

There is no right of maintenance to a woman living in live-in relationship with a Hindu man unless and until it has been proved or presumed that the man and woman living together are husband and wife. The obligation of maintenance of woman is only in the relation of marriage and not in any other relation in Hindu Law.

Status Of Live-In-Relationship In Muslim Law

Live-in relationship frequently applied to couples who aren't married. In Islamic law this type of illicit sexual relation is an evil per se, as it opens doors for other evils and this type of illicit relation is known as *zina*. In Arabic terminology, *zina* means any sexual intercourse outside the marriage which stands for both adultery and fornication, as Islam prohibits all sexual intimacy other than between husband and wife within marriage. Legally the term *zina* means: a man and woman are said to commit *zina*, if they wilfully have sexual intercourse, without having validly married to each other¹ it is in *Holy Quran* that;

¹¹ AIR 2010 SC 2933

“Assuredly, the command of Allah (subhanawata'ala): And come not near unto adultery.

Lo! It is an abomination and an evil way.”¹²

The prophet (Peace Be upon on Him) said: “No adulterer is a believer at the time when he is committing adultery”¹³; it is just and true that Islam prohibits steps and every means leading to Haram. Accordingly every illicit sexual relation is Haram. Indeed, it is not only a sin but also a heinous crime. Therefore punishment is prescribed not only to protect man and woman but also for the respect of marriage.

It is noteworthy that in modern penal system voluntarily sexual relationship out of the purview of matrimonial relationship are not considered crime, while such sexual liberty is foreign to all the sacred laws. Sacred laws not only forbid but also render harsh and exemplary punishments for all kinds of sexual relations outside the marriage. It is one of the greatest sins. Punishment is provided because it is a crime against honour and generations.

The *Holy Quran* says:

*Nor come nigh to adultery: for it is a shameful deed, and an evil, opening the road to other evils.*¹⁴

The woman and the man guilty of adultery or fornication - flog each of them with a hundred stripes: Let not compassion move you in their case, in a matter prescribed by Allah, if ye believe

*in Allah and the Last Day: and let a party of the Believers witness their punishment.*¹⁵

“ And those who cry not unto any other any God along with Allah, nor take the life which Allah hath forbidden save in (course of) justice, nor commit adultery and who so doeth this shall pay the penalty”¹⁶

Prophet Mohammad (Peace Be upon on Him) has condemned *zina* to the greatest sin after shirk. There is no sin after association is much greater in the eye of Allah (*Subhana WaTa'ala*) than a drop of semen which a man places in the womb which is not lawful for him.

Prophet Mohammad (Peace Be upon on Him) has said, “Allah has ordained a way for those women. When an unmarried male commits adultery with an unmarried female, they should receive one hundred lashes and banishment for one year. And in case of married male committing adultery with a married female, they shall receive one hundred lashes and be stoned to death”¹⁷

Presumption Of Marriage In Live-In Relationship In Muslim Law

The question of marriage is one of fact, and has to be proved by direct evidence, e.g., calling witnesses present at the time of marriage or producing of *Nikahnama* (marriage deed) signed by the parties. Thus the direct evidence is the best evidence. Sometime direct evidence is not available as a Muslim marriage often takes place without any ceremony.¹⁸ And the man and woman from the time of the alleged marriage living

¹⁵ *Quran* 24:2

¹⁶ *Quran* 25: 68

¹⁷ *Sahih Muslim*, 17:4191

¹⁸ I.A. Khan, *Mohammedan Law*, (Central Law Agency, Allahabad 23rd ed.2010, P-135

¹² *Quran* 17: 32

¹³ *Al-Bukhaari*, 2475; *Muslim*, 57

¹⁴ *Quran* 17:32

together as husband and wife and this relation in the absence of direct evidence can further inferred as marriage from the circumstances and conduct of the parties.

In the case of *Rashida Khatoon v. S.K. Islam*,¹⁹ the Orissa Court held that in the instant case there was no acceptance of the offer to marry, but there was only assurance to marry in future and therefore, mere cohabitation with such an assurance does not constitute the factum of marriage to give the status of a validly married woman.

Islam strictly prohibit and severely punish this type of relation as discussed earlier and it evident from the above discussion that continuously doing the *zina* will not give any presumption to the marriage, because continuous repeating the sin will not turn out to be a virtuous deed as there is one hadith saying that, "one who marry completes half of his religion"³

However, if the parties to such immoral activity wants to marry, they can do it subject to the condition that they repent and the woman followed *istibra* (wait for one menstrual cycle) to establish that she is not pregnant before doing the marriage contract with her. If she is pregnant the *iddat* period should be followed till delivery of the child.

The Allah (*SubhanaWaTa'ala*) says in the Holy Quran that:

"The adulterer shall not marry save an adulteress or an idolatress, and the adulteress

*none shall marry save an adulterer or an idolater. All that is forbidden unto believers"*²⁰

Shaykh Muhammad ibn Ibrahim (May Allah has mercy on him) said that it is not permissible to marry a woman who has committed *zina* until she repents. If a man wants to marry her then he must wait for one menstruation cycle (*istibra*) to establish that she is not pregnant before doing the marriage. If she is pregnant; it is not permissible for him to do the marriage contract with her until after she gives birth.²¹

Ibn Qudaamah (May Allah have mercy on him) said that if a woman commits *zina* it is not permissible for the one who knows of that to marry her unless two conditions are met:

1. That her *istibra* (determining that the woman is not pregnant) has ended. If she is pregnant as the result of *zina* then her *iddat* ends when she gives birth, and it is not permissible to marry her before she gives birth.
2. That she repents from committing *zina*,

And he said that if both conditions are met, it is permissible for the *zaani* (adulterer) or anyone else to marry *zaanyah* (adulteress). According to the majority of the scholars, including *Abu Bakr, Umar and his son, Ibn Abbas, Jaabir, Sa'eedibn al Musayyab, JaabiribnZayd, Ata, Al Hasan, Ikrimah, Al Zuhri, Al Thawri, Al Shaafa'I, Ibn al Mundhir and Ashaab al ra'y* (May Allah have mercy on all of them) view that the marriage of

¹⁹AIR 2005 Ori.57

²⁰ Quran 24: 3.

²¹Al-Fataawa al-Jaami'ah li'l-Mar'ah al-Muslimah (2/584)

the *zaani* and *zaaniyah* is valid, even if they have not repented.²²

The *Hanbali* are of the view that the marriage of a *zaaniyah* is not valid unless she does not repents but they did not stipulate that the *zaani* has to repent in order for the marriage to be valid.

Child born out of illicit relation is illegitimate and is not permissible for him to be named after his illegitimate father, rather he/she should be named after her mother and he/ she have no right in property of his illegitimate father. It was narrated from *Amr ibn Shu'ayb* from his father that his grandfather said that the *Prophet (Peace Be upon on Him)* ruled that “whoever was born to a slave woman his father did not own or to a free woman with whom he committed adultery, then he cannot be named after him and he does not inherit from him, even if the one whom he claims is his father acknowledges him. So he is the product of *zina*, whether his mother was a free woman or a slave”.²³

Maintenance Rights Of Live-In-Partner In Muslim Law

Live in relationship has no legal effect and does not create any legal and moral obligation towards each other as like in marriage in Islam. The woman is not entitled to the privileges which are given to the wife in marriage like dower, maintenance and sometime separate residence and the right of inheritance in the husband's property after husband's death. The offspring's of the live in relation are illegitimate. And to claim the

²²*Al-Mughni* (7/108, 109)

²³Narrated by *Abu Dawood* (2265) and *Ibn Maaajah* (2746) classed as hasan by al-Albaani in *Saheeh Abu Dawood*

maintenance it is necessary that there should be a marriage between the parties.

Conclusion

Islamic law forbids sexual relation before or outside marriage. *Sharia* considers consensual premarital sex as *hudud* crime (Crime against Allah) and requires public punishment. *Islam* explicitly forbids all sex outside of marriage, both premarital sex and sex outside marriage (*zina*). Beyond being a crime requiring punishment in worldly life, fornication is a sin leading to chastisement in after-life in Islam. Hindu law condemns the relations outside marriage and declares marriage as a socio-religious institution, which is connected with so many religious obligations. And it is not permitted to make such relations which are immoral or against the social norms and there is no doubt that a Hindu marriage is a religious ceremony and the one prescribed to purification of the soul. However the judicial response to the live-in-relationship is somehow makes it cloudy. It gives the presumption of marriage for the long durational live-in-relation unless and until it is proved contrary. Live-in-relationship is included under Domestic Violence Act 2005 as domestic relationship. However live-in-relationship is not a marriage. It is harm to the legally wedded wife and her children if the husband is in live-in-relationship and also to the woman who by circumstances living under such unrecognized relationship. So as the personal law is the principal law governing to the relationship eminence which recognizes the status and right to inherit the property, it needs to be cleared and certain to circumvent the above consequences.

With the change in the society it is needed to ascertain the issue with meaningful and practical solution. Though the parliament and judiciary trying to recognize this concept but in our society it is unacceptable as a whole and also against the religious ethos.

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Role of the National Biodiversity Authority in providing Access to Biological Resources in India

Shova Devi

Abstract

Access to bioresource in India for commercial utilisation is regulated via the three tier system specified in the Biological Diversity Act 2002. This includes the National biodiversity Authority (NBA), the State Biodiversity Authority (SBBs) and the Biodiversity Monitoring Committees (BMCs). The NBA has a crucial role in the implementation of access mechanism. Access of bioresources is not only about economic considerations but it has wider reflections. Hence, the regulating of activities in relation to bio-survey, bio-utilisation or commercialization of bioresources is vital for protecting and sustaining bioresources. In this regard, the role of the National Biodiversity Authority is imperative.

Keywords: *Biodiversity, Bio-resource, Biological Diversity Act 2000, National Biodiversity Authority*

Introduction

A rich heritage of biological diversity (biodiversity) is spread throughout India. The vast stretch of different zones of biodiversity and endemism is what makes India a mega biodiverse nation. The utilization of Biological resources (bioresources) is integral to the economic development and livelihood sustenance, specifically for the rural population and the indigenous communities. In return, the communities have been the protectors of biodiversity and preservers of bioresources and

associated traditional knowledge (TK). India is a party to key multilateral agreements on environmental issues, including the Convention on Biological Diversity (CBD).¹ Pursuant to the CBD, following a widespread process and program, the Biological Diversity Act 2002 was promulgated. The objective of the Act includes conservation of biological diversity, sustainable utilisation of its components and fair and equitable sharing of benefits arising out of the utilisation of biological resources and associated knowledge

The Biological Diversity Act 2002 (Act), the Biological Diversity Rules 2004 (Rules) and the Guidelines on Access to Biological Resources and associated Knowledge and Benefit Regulation 2014 (ABS Guidelines 2014), together provides the legal framework for the access of bioresources in India.

The objectives of the National Biodiversity Authority (NBA) is to implement the Act and thus conserve India's biodiversity and associated knowledge, facilitate its sustainability and ensure the benefits arising out of the utilization of the bio resources are fair and equitably shared with the concerned communities who are involved in

¹ India is a party to the following conventions: Ramsar Conservation on Wetlands, 1971, Convention for the Protection of World Cultural and Natural Heritage, 1972, Convention on International Trade of Endangered Species of Wildlife Fauna and Flora, 1973, Convention on the Conservation of European Wildlife and Natural Habitat, 1979, World Conservation Strategy, 1980, Convention on Biological Diversity, 1992

conservation, use and management.² The Act mandates the implementation through a decentralized system with National Biodiversity Authority at the national level, the State Biodiversity Boards (SBB) at State level and the Biodiversity Management Committees (BMC) at the local body level. In India, the National Biodiversity Authority is the one that regulates commercial utilization, access of resources and matters related to the Intellectual Property regime. To assist the NBA in the access mechanism, SBBs and BMCs have been established. This research study identifies the role of the NBA in providing access to bioresources. It also highlights the change in access mechanism after the announcement of the ABS Guidelines, 2014. The study shall assist in understanding the whole access procedure and implementation mechanism in relation to access of bioresources in India from the legal standpoint.

Access to Bio-resources under the Biological Diversity Act, 2002

The Biological Diversity Act 2002 (Act) envisages the access and use of bioresources and knowledge associated thereto for certain specific purposes; classified as (i) commercial utilization; (ii) research; and (iii) bio-survey and bio-utilization. All these purposes require the access of bioresources and statutory permission for the same. In this regard, the role of NBA has been elucidated.

Access to Bio-resource and Intellectual Property Rights

Approval from the NBA is an important step to initiate certain biodiversity related activities in

² Annual Report (2017-2018)-National Biodiversity Authority, http://nbaindia.org/uploaded/Annual_report_2017-18_english.pdf.

India. In this regard, Section 3 of the Act discusses on the eligibility of certain persons, who can not undertake biodiversity related activities without the approval of the NBA.³

Any person who is not a citizen of India, or who is a citizen but a non-resident, shall have to seek approval of the NBA. Further, a body corporate, association or organization not incorporated in India, or incorporated or registered in India under any law for the time being in force which has any non-Indian participation in its share capital or management, shall also have to seek the approval of the NBA. The approval shall be in regard to obtain any biological resource occurring in India or knowledge associated thereto for research or for commercial utilisation or for bio-survey and bio-utilisation. The provision is a very important provision and works as a restriction for foreign entities. And, the NBA is the sole authority with the power to provide the approval.

Determination of Equitable Benefit Sharing

In relation to application regarding approval under 19 and 20 of the Act, the NBA ensures that the terms and conditions subject to which approval is granted secures equitable sharing of benefits arising out of the use of accessed biological resources, their by-products innovations and practices associated with their use and applications and knowledge relating thereto in accordance with mutually agreed terms and conditions between the person applying for such approval, local bodies concerned and the benefit claimers. The NBA, subject to any regulations made in this behalf,

³ Section 3; Biological Diversity Act, 2002; <http://nbaindia.org/>.

determine the benefit sharing. It can be in the various manners, as provided;

- In the form of grant of joint ownership of intellectual property rights to the National Biodiversity Authority or identified benefit claimers.
- It can be in the form of transfer of technology.
- A location of production, research and development units in such areas which will facilitate better living standards to the benefit claimers.
- Any association of Indian scientists, benefit claimers and the local people with research and development in biological resources and bio-survey and bio-utilisation.
- By setting up of venture capital fund for aiding the cause of benefit claimers.
- Or, in the form of payment of monetary compensation and other non-monetary benefits to the benefit claimers as the National Biodiversity Authority may deem fit.

The amount of money ordered by way of benefit sharing, can either be deposited in the National Biodiversity Fund, or directly be paid to such individual or group of individuals or organizations in accordance with the terms of any agreement. In this regard, the NBA has been provided with authority to frame guidelines and regulations. The NBA has executed this provision and published the ‘Guidelines on Access to Biological Resources and

Associated Knowledge and Benefits Sharing Regulations, 2014’⁴.

Regulation of Access to Biological Resources and / or Associated Knowledge

The National Biodiversity Authority is mandated to regulate access to biological resources and or associated knowledge for research, bio-survey and bio-utilization, commercial utilization, obtaining Intellectual Property Rights, transfer of results of research and transfer of accessed biological resources. However, the process involves the due permission of the NBA which can be obtained by the specified application forms (as per the Act and the Rules).

The details of application forms for specific activities are given below:

APPLICA TION FORM	PURPOSE OF APPLICA TION	WHO SHALL APPLY	APPLICA TION FEE
FORM I	Access of Bioresources occurring in or obtained from India and /or associated knowledge for research,	Non-Indian, NRI, Foreign Entity or Indian Entity having non-Indian Participation in	INR 10,000

⁴http://nbaindia.org/uploaded/pdf/Gazette_Notification_of_ABS_Guidelines.pdf.

	commercial utilisation, bio survey or bio-utilisation	share capital or management	
FORM A	If the application is a Trader/ Manufacturer/ Company, he shall submit along with the form I, as per Regulation 2 of the ABS Guidelines, 2014	Trader/ Manufacturer/ Company ,	
FORM II	Transfer of Result of research	Any Indian, Non-Indian or Entity to any Non-Indian, NRI, Foreign Entity or Indian Entity having non-Indian	INR 5,000

		Participation in share capital or management	
FORM III	Application for Intellectual Property Rights for Inventions based on any research or information on bioresources obtained from India	Any Indian, Non-Indian or Entity	INR 500
FORM IV	Transfer of bioresources, knowledge already accessed to a third party.	Any person who obtained approval of NBA in Form I, Indian, Non-Indian or Entity	INR 10,000

Access to bio resources and Penalties

The Biological Diversity Act, 2002 pronounces it mandatory to follow the access procedure, as mentioned the Act. However, if anyone contravenes

or abets to contravention of the provisions of Section 3 ;Section 4 or Section 6,⁵ shall be punished with the imprisonment of a term which may extend to 5 years or with fine which may extend to 10 lakh Rupees and above (considering the damage caused).

Access Measures and ABS Guidelines 2014

In 2014 the Access and benefit sharing Guidelines were announced by the Indian Government, which provided the new perception for access mechanism in India. The Guidelines provided for payment of a prescribed fee to the BMC for the access of the bioresources. The fee is to be paid by the companies who are using the bioresources and the SBB are the main link that bridges the process of access. The guidelines mainly focus on the commercial aspect of the access of the bioresources and provide a context in which financial obligation of the user is to be determined, in terms of details on process and amount to be shared. The commencement of the guidelines was a huge change that helped in invoking the role of the SBB and BMC in getting involved in levying charges on the companies.

Conclusion

This study provides a transitory of the Access Mechanism available under the Biological Diversity Act 2002. Wherein, the NBA is designated to provide the approval for activities related to bioresources. Provision, namely section 3, section 6 and section 21 are the vital provisions that deal with the access of bioresource in India. And, in case the mentioned procedure is not followed it shall be subjected to penalties. These provisions on access

measures are more centric to the NBA, whereas, the SBBs and the BMCs have considerable role in the process. The NBA is the authority for providing approval/ access to bioresources available in India and has been significantly working towards implementing the true objectives of the Act.

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⁵ Section 55- Penalties ; Biological Diversity Act, 2002; <http://nbaindia.org/>.

Development Of International Maritime within India, Bangladesh and Sri Lanka Law Post Torrey Canyon Incident

Souvik Mukherjee & Vijoy Kumar Sinha

Abstract

Major accidents world over led the international community to introspect and realise the dangers involving oil transport. Oil transport accounts for nearly a third of global maritime trade. Oil is transported quietly and safely but the world have witnessed fair share of incident involving oil spillage. Pollution of the sea by oil is a not a problem which can be treated as limited problem in geographical sense, rather it is a matter for concern at national, regional and international level due to the lethal effects oil spillage may have over marine environment. Today there are several international conventions in place to counter the challenged of oil pollution. In this article, we would reflect upon the development of international conventions with respect to marine oil pollution post Torrey Canyon Incident and how some of the South Asian reacted to the development of international conventions primarily focusing on Republic of India.

Keywords:

Accidents, marine pollution, spillage, compensation

Introduction

Oil tankers transport some 2,900 million tonnes of crude oil and oil products every year around the world by sea.¹ Oil Transport accounts for nearly a third of global maritime trade.² Most of the time, oil is transported quietly and safely. However, the world have witnessed fair share of incident involving oil spillage. Pollution of the sea by oil is a not a problem which can be treated as limited problem in geographical sense, rather it is a matter for concern at national, regional and international level due to the lethal effects oil spillage may have over marine environment.³ Appropriate and timely steps are taken to prevent, mitigate, control, remove or combat the concern relating to Oil pollution is not something one could ignore.⁴

The world community realized that the dangers involved with oil transport but not before some

¹ See, available at: <http://www.imo.org/en/OurWork/Environment/PollutionPrevention/OilPollution/Pages/Default.aspx> (Last Accessed on 1.05.2017).

² See, available at: <http://www.planete-energies.com/en/medias/close/transporting-oil-sea>, (Last Accessed on 30.04.2017).

³ See, available at: http://www.dgshipping.gov.in/Content/PageUrl.aspx?page_name=ShipManualChap16 (Last Accessed on 30.04.2017).

⁴ *Ibid.*

major accident. Today there are several International Conventions in place to counter the challenged of Oil Pollution. The International Conventions had certain specific goals and issues which they intended to address:

-elimination of the willful and International Pollution of the Seas by oil;

-minimization of the willful, intentional and accidental pollution of the seas by oil and other substances from offshore facilities

-complete elimination of the willful and intentional pollution of the sea by activities such as tank washing and bilge discharge involving noxious and hazardous cargoes other than oil

-minimization of spillage of oil or other noxious substances as a result of accidents.⁵

In this article, I would reflect upon the development of International Conventions with respect to Marine Oil Pollution post Torrey Canyon Incident and how some of the South Asian reacted to the development of International Conventions primarily focusing on Republic of India.

Brief Facts Of The Torrey Canyon Case

In March, 1967, a cargo of 119000 tonnes of Crude Oil was spilled over 12 days due to a vessels ruptured Tanks. The Vessel was named

⁵ *Ibid.*

as Torrey Canyon. Several efforts were made to mitigate the oil spillage including Bombing of the area of spillage by British Govt. to burn off the Oil.⁶ The efforts were only partially successful, the pollution spread over South west part of England endangering seabirds and livelihood of locals etc. Further, environmental damage was caused due to indiscriminate use of dispersants and solvent based cleaning agents.⁷ The ills of Torrey Canyon incident brought the issue of oil spillage related pollution before the general public.⁸ As an outcome of the incident the international community formulated the International Convention forming the basis for compensation for damage caused by tanker spills. Interim steps to the same effect were also taken so that the period till the Convention came in force was covered.⁹

Development of International Maritime Law post Torrey Canyon

1969 International Convention on Civil liability for Oil Pollution Damage

Post Torrey Canyon Case the international community came up with a Convention titled 'International Convention on Civil Liability for Oil Pollution Damage, 1969'. The Convention in short is known as CLC and

⁶ See, *available at*: <http://www.itopf.com/in-action/case-studies/case-study/torrey-canyon-united-kingdom-1967/> (Last Accessed on 30.04.2017).

⁷ See, *available at*: <http://www.itopf.com/in-action/case-studies/case-study/torrey-canyon-united-kingdom-1967/> (Last Accessed on 30.04.2017).

⁸ *Ibid.*

⁹ *Ibid.*

came into force in 19.06.1975. Several Protocols were annexed to the Convention, however the Protocol of 1992 was drafted intending to replace the 1969 Convention the same came into force on 30th May 1996.¹⁰

The Objective of the Convention is to ensure that adequate compensation is available to persons who suffer oil pollution damage resulting from maritime casualties involving oil-carrying ships. The Convention stipulates the liability for damage due marine oil pollution is on the owner of the ship from which the polluting oil escaped or was discharged. The nature of liability stipulated is strict with a limited numbers of exceptions; the onus is on the owner to prove in each case that any of the exceptions should in fact operate. However, except where the owner has been guilty of actual fault, they may limit liability in respect of any one incident. The Convention stipulates that Marine Insurance to be equivalent to the owner's liability for one incidence.¹¹

The Convention applies to all seagoing vessels actually carrying oil in bulk as cargo, but only ships carrying more than 2,000 tons of oil are

required to maintain insurance in respect of oil pollution damage.¹²

The Protocol of 1976, which entered into force in 1981, provided for the applicable unit of account used under the convention to be based on the Special Drawing Rights (SDR) as used by the International Monetary Fund (IMF), replacing the "*Poincaré franc*", based on the "official" value of gold, as the applicable unit of account.¹³

The Protocol of 1992 made substantial changes to the provision of the 1969 Convention. To begin with, the Protocol of 1992 changed the entry into force requirements by reducing from six to four the number of large tanker-owning countries that were needed for entry into force.¹⁴ Further the compensation limits were set as follows:

-For a ship not exceeding 5,000 gross tonnage, liability is limited to 3 million SDR

-For a ship 5,000 to 140,000 gross tonnage: liability is limited to 3 million SDR plus 420 SDR for each additional unit of tonnage

¹² Article VIII, *Ibid*

¹³ See, *available at*: [http://www.imo.org/en/About/conventions/listofconventions/pages/international-convention-on-civil-liability-for-oil-pollution-damage-\(clc\).aspx](http://www.imo.org/en/About/conventions/listofconventions/pages/international-convention-on-civil-liability-for-oil-pollution-damage-(clc).aspx) (Last Accessed on 30.04.2017).

¹⁴ Article 13, International Maritime Organization Protocol of 1992 to amend the International Convention on Civil Liability for Oil Pollution Damage of 29 November 1969, <http://www.admiraltylawguide.com/conven/protocivilpol1992.html> (Last Accessed on 30.04.2017).

¹⁰ See, *available at*: [http://www.imo.org/en/About/conventions/listofconventions/pages/international-convention-on-civil-liability-for-oil-pollution-damage-\(clc\).aspx](http://www.imo.org/en/About/conventions/listofconventions/pages/international-convention-on-civil-liability-for-oil-pollution-damage-(clc).aspx) (Last Accessed on 30.04.2017).

¹¹ Article III, CLC, 1969, <http://www.admiraltylawguide.com/conven/civilpol1969.html> (Last Accessed on 30.04.2017).

-For a ship over 140,000 gross tonnage: liability is limited to 59.7 million SDR.¹⁵

Further in the year 2000 the compensation limit has been amended and it is as follows:¹⁶

- For a ship not exceeding 5000 gross tonnage, liability is limited to 4.51 million SDR (US \$ 5.78 million).
- For a ship 5000 to 140000 gross tonnage: liability is limited to 4.51 million SDR plus 631 SDR for each additional gross tone over 5000.
- For a ship over 140000 gross tonnage: liability is limited to 89.77 million SDR.

The 1992 protocol also widened the scope of the Convention to cover pollution damage caused in the exclusive economic zone (EEZ) or equivalent area of a State Party. Further under the 1992 Protocol Environmental damage compensation is limited to costs incurred for reasonable measures to reinstate the contaminated environment.¹⁷

The Protocol also extended the Convention to cover spills from sea-going vessels

constructed or adapted to carry oil in bulk as cargo so that it applies apply to both laden and unladen tankers, including spills of bunker oil from such ships.¹⁸

Under the 1992 Protocol, a ship-owner cannot limit liability if it is proved that the pollution damage resulted from the ship-owner's personal act or omission, committed with the intent to cause such damage, or recklessly and with knowledge that such damage would probably result.¹⁹ The 1992 Protocol stipulates mechanism for compulsory denunciation of the "1969" regime.²⁰ However, the 1992 Protocol allows for States Party to the 1992 Protocol to issue certificates to ships registered in States which are not Party to the 1992 Protocol, so that a ship-owner can obtain certificates to both the 1969 and 1992 CLC, even when the ship is registered in a country which has not yet ratified the 1992 Protocol.²¹

International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (FUND)

¹⁵ See, *available at*: [http://www.imo.org/en/About/Conventions/ListOfConventions/Pages/International-Convention-on-Civil-Liability-for-Oil-Pollution-Damage-\(CLC\).aspx](http://www.imo.org/en/About/Conventions/ListOfConventions/Pages/International-Convention-on-Civil-Liability-for-Oil-Pollution-Damage-(CLC).aspx) (Last Accessed on 30.04.2017).

¹⁶ See, *available at*: [http://www.imo.org/en/About/Conventions/ListOfConventions/Pages/International-Convention-on-Civil-Liability-for-Oil-Pollution-Damage-\(CLC\).aspx](http://www.imo.org/en/About/Conventions/ListOfConventions/Pages/International-Convention-on-Civil-Liability-for-Oil-Pollution-Damage-(CLC).aspx) (Last Accessed on 30.04.2017).

¹⁷ Article 3(a)(ii), International Maritime Organization Protocol of 1992 to amend the International Convention on Civil Liability for Oil Pollution Damage of 29 November 1969, <http://www.admiraltylawguide.com/conven/protocivilpol1992.html> (Last Accessed on 30.04.2017).

¹⁸ See, *available at*: [http://www.imo.org/en/About/Conventions/ListOfConventions/Pages/International-Convention-on-Civil-Liability-for-Oil-Pollution-Damage-\(CLC\).aspx](http://www.imo.org/en/About/Conventions/ListOfConventions/Pages/International-Convention-on-Civil-Liability-for-Oil-Pollution-Damage-(CLC).aspx) (Last Accessed on 30.04.2017).

¹⁹ Article 6(2), International Maritime Organization Protocol of 1992 to amend the International Convention on Civil Liability for Oil Pollution Damage of 29 November 1969, See <http://www.admiraltylawguide.com/conven/protocivilpol1992.html>, (Last Accessed on 30.04.2017).

²⁰ Article 16, *Ibid*

²¹ See, *available at*: [http://www.imo.org/en/About/Conventions/ListOfConventions/Pages/International-Convention-on-Civil-Liability-for-Oil-Pollution-Damage-\(CLC\).aspx](http://www.imo.org/en/About/Conventions/ListOfConventions/Pages/International-Convention-on-Civil-Liability-for-Oil-Pollution-Damage-(CLC).aspx) (Last Accessed on 30.04.2017).

Although the 1969 Civil Liability Convention provided a useful mechanism for ensuring the payment of compensation for oil pollution damage, it did not deal satisfactorily with all the legal, financial and other questions raised during the Conference adopting the CLC Convention.²² Hence, ‘*International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage*’, came in to force on 16.10.1978 addressing the issue of providing compensation for pollution damage to the extent that the protection afforded by the 1969 CLC is inadequate.²³ Further, the Convention intended to give relief to ship-owners in respect of the additional financial burden imposed on them by the 1969 Civil Liability Convention, such relief being subject to conditions designed to ensure compliance with safety at sea and other conventions. This very Convention was also superseded by the 1992 Protocol to this Convention.²⁴

International Convention for the Prevention of Pollution from Ships (1973)

²² See, available at: <http://www.imo.org/en/About/Conventions/ListOfConventions/Pages/International-Convention-on-the-Establishment-of-an-International-Fund-for-Compensation-for-Oil-Pollution-Damage-%28FUND%29.aspx> (Last Accessed on 30.04.2017).

²³ See, available at: <http://www.imo.org/en/About/Conventions/ListOfConventions/Pages/International-Convention-on-the-Establishment-of-an-International-Fund-for-Compensation-for-Oil-Pollution-Damage-%28FUND%29.aspx> (Last Accessed on 30.04.2017).

²⁴ See, available at: <http://www.imo.org/en/About/Conventions/ListOfConventions/Pages/International-Convention-on-the-Establishment-of-an-International-Fund-for-Compensation-for-Oil-Pollution-Damage-%28FUND%29.aspx> (Last Accessed on 30.04.2017).

The, ‘*International Convention for the Prevention of Pollution from Ships*’, came into force 2nd October 1983.²⁵ This Convention covers prevention of pollution by oil from operational measures as well as from accidental discharges; the 1992 amendments to Annex I made it mandatory for new oil tankers to have double hulls and brought in a phase-in schedule for existing tankers to fit double hulls, which was subsequently revised in 2001 and 2003.²⁶

International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969 (Intervention Convention)

The International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties came into force on 6th May 1975.²⁷ This Convention affirms the right of a coastal State to take such measures on the high seas as may be necessary to prevent, mitigate or eliminate danger to its coastline or related interests from pollution by oil or the threat thereof, following upon a maritime casualty.²⁸ The coastal State is, however,

²⁵ See, available at: <http://www.imo.org/en/About/Conventions/ListOfConventions/Pages/International-Convention-on-the-Establishment-of-an-International-Fund-for-Compensation-for-Oil-Pollution-Damage-%28FUND%29.aspx> (Last Accessed on 30.04.2017).

²⁶ *Ibid.*

²⁷ See, available at: <http://www.imo.org/en/About/Conventions/ListOfConventions/Pages/International-Convention-Relating-to-Intervention-on-the-High-Seas-in-Cases-of-Oil-Pollution-Casualties.aspx> (Last Accessed on 30.04.2017).

²⁸ Article I, Intervention Convention, 1969, <https://cil.nus.edu.sg/rp/il/pdf/1969%20International%20Convention%20Relating%20to%20Intervention%20in%20Cases>

empowered to take only such action as is necessary, and after due consultations with appropriate interests including, in particular, the flag State or States of the ship or ships involved, the owners of the ships or cargoes in question and, where circumstances permit, independent experts appointed for this purpose.²⁹ A coastal State which takes measures beyond those permitted under the Convention is liable to pay compensation for any damage caused by such measures.³⁰

International Convention on Oil Pollution Preparedness, Response and Co-operation (OPRC)

International Convention on Oil Pollution Preparedness, Response and Co-operation came in force on 13.05.1995.³¹ Parties to the International Convention on Oil Pollution Preparedness, Response and Co-operation (OPRC) are required to establish measures for dealing with pollution incidents, either nationally or in co-operation with other countries.³² Ships are required to carry a shipboard oil pollution emergency plan.³³

²⁹ Article III(a), *Ibid*
³⁰ Article VI, *Ibid*

³¹ See, *available at*:
<http://www.imo.org/en/About/Conventions/ListOfConventions/Pages/International-Convention-on-Oil-Pollution-Preparedness%2c-Response-and-Co-operation-%28OPRC%29.aspx> (Last Accessed on 30.04.2017).

³² See, *available at*:
<http://www.imo.org/en/About/Conventions/ListOfConventions/Pages/International-Convention-on-Oil-Pollution-Preparedness%2c-Response-and-Co-operation-%28OPRC%29.aspx> (Last Accessed on 30.04.2017).

³³ Article 3, International Convention on Oil Pollution Preparedness, Response and Co-operation,

Operators of offshore units under the jurisdiction of Parties are also required to have oil pollution emergency plans or similar arrangements which must co-ordinate with national systems for responding promptly and effectively to oil pollution incidents.³⁴ Ships are required to report incidents of pollution to coastal authorities and the convention details the actions that are then to be taken.³⁵ Parties to the convention are required to provide assistance to others in the event of a pollution emergency and provision is made for the reimbursement of any assistance provided.³⁶

Merchant Shipping Act , 1958 & India

Prevention of such oil pollution handled by Part XIA Merchant Shipping Act, 1958 and M.S. (Prevention of Pollution of the Sea by Oil) Rules, 1974. These rules are applicable to all tankers of 150 tons gross or more and all other ships of 400 tons gross or more.³⁷ The rules specify the limits of the prohibited zones, the equipment to be carried on board the ship and general precautions to be taken for prevention of leakage and accidental discharges as well as precautions to be taken while loading, transferring and unloading oil by tankers.³⁸ Mitigation, containment/ control, removal or combat of oil spillage, whether accidental or

<http://www.ifrc.org/docs/idrl/I245EN.pdf> Last Accessed on 30.04.2017

³⁴ Article 3(2), *Ibid*

³⁵ Article 4, *Ibid*

³⁶ Annex, *Ibid*

³⁷ See, *available at*:
http://www.dgshipping.gov.in/Content/PageUrl.aspx?page_name=ShipManualChap16 , (Last Accessed on 30.04.2017).

³⁸ *Ibid*.

otherwise. A Contingency Plan of action is prepared so that in the event of any spillage whether accidental or otherwise.³⁹ The plan envisages overall co-ordination by the D.G. as Central Co-ordinating Authority with the local co-ordination/control being exercised by the authorities in the major ports.⁴⁰ The Local Action Groups are also constituted and they shall be required to have the attendant infrastructure ready to meet the emergent situation expeditiously effectively and successfully.⁴¹ The recent rules with respect to prevention of oil pollution were framed in 2010.⁴²

The main functions of the Fund Convention are to provide supplementary compensation to those who cannot obtain full compensation for Oil Pollution Damage under the Civil Liability Convention and to indemnify the ship-owner for portion of his liability under that Convention.⁴³ The IOPC Fund pays compensation to those suffering Oil Pollution Damage in a State Party to the Fund Convention mostly when the damage exceeds the ship-owners Liability under the Civil Liability Convention or he is unable to pay

otherwise.⁴⁴ The compensation payable by the IOPC Fund in respect of an accident is limited to an aggregate amount of 60 million SDR (U.S. \$93 Million) including the sum actually paid by the ship-owner (or his insurer) under the Civil Liability Convention.⁴⁵ The Fund is financed by contributions from member states who receive in one Calendar year more than 150000 Tonnes of Crude Oil & Heavy Fuel Oil under Sea transport.⁴⁶

Chapter XB of The Merchant Shipping Act, 1958 stipulates for Civil Liability for Oil Pollution Damage. The Chapter lists the when the chapter to apply. Further Liability of owner, Limitation of liability, Constitution of limitation fund, Acquisition of right for compensation by subrogation, Consolidation of Claim and distribution of fund, Compulsory insurance or other financial guarantee, Acceptance of Certificate issued outside India, Ban on entering or leaving an Indian Port without Certificate, Government ships, Power to make rules.⁴⁷ While XIA of the M.S. Act, 1958 provides for Definitions Provisions for Prevention of Pollution, Prohibitions as to discharge of oil or oily mixture, Prohibition not to apply in certain case, Equipment in ships to prevent oil pollution, Oil record book, Inspection and control of ship to which the Convention applies, Information regarding contravention of the provisions of the Convention, Oil reception facilities at ports in

³⁹ *Ibid.*

⁴⁰ See, *available at:* http://www.dgshipping.gov.in/Content/PageUrl.aspx?page_name=ShipManualChap16, (Last Accessed on 30.04.2017).

⁴¹ *Ibid*

⁴² See, *available at:* <http://www.dgshipping.gov.in/Content/MerchantShippingRules.aspx>, (Last Accessed on 30.04.2017).

⁴³ See, *available at:* http://www.dgshipping.gov.in/Content/PageUrl.aspx?page_name=ShipManualChap16, (Last Accessed on 30.04.2017).

⁴⁴ *Ibid.*

⁴⁵ *Ibid.*

⁴⁶ Merchant Shipping Act, 1958, Chapter XB.

⁴⁷ Merchant Shipping Act, 1958, Chapter XIA.

India, Provisions for containment of accident pollution, Power to give notice to owner, etc., of polluting ships, Power to take measures for preventing or containing oil pollution, Power of the Central Government to give directions to certain ships to render certain services, Oil Pollution cess, Refusal of port clearance Back, Power to make rules.⁴⁸

Convention and India

Amongst the International Conventions dealing with Marine Oil Pollution India has ratified many of the Conventions and several Conventions and Protocols are under consideration for ratification.

S. No.	International Conventions and Protocols on Oil Pollution	Status
1	International Convention on Civil Liability for oil pollution damage, 1969	Ratified ⁴⁹
2	Protocol to the International Convention on Civil Liability for Oil Pollution Damage, 1969 (CLC PROT 1976)	Ratified ⁵⁰

3	Protocol of 1992 to amend the International Convention on Civil Liability for Oil Pollution Damage 1969 (CLC PROT 1992)	Ratified ⁵¹
4	International Convention on the establishment of an International Fund for compensation of Oil Pollution Damage 1971 (FUND 1971)	Ratified ⁵²
5	Protocol of 1992 to amend the International Convention on the establishment of an International Fund for the compensation of Oil Pollution Damage 1971(FUND PROT 1992)	Under Consideration ⁵³
6	International Convention relating to Intervention on the High Seas to Remove Pollution from the Surface of the Sea 1969 (Intervention 1969)	Under Consideration ⁵⁴

⁴⁸ See, available at: http://dgshipping.gov.in/Content/PageUrl.aspx?page_name=ShipManualChap10, (Last Accessed on 30.04.2017).

⁴⁹ *Ibid.*

⁵⁰ *Ibid.*

⁵¹ See, Liability and Compensation for Ship-Source Oil Pollution: An Overview of the International Legal Framework for Oil Pollution Damage from Tankers, available at: https://unctad.org/en/PublicationsLibrary/dtl1b20114_en.pdf (Last Accessed on 30.04.2017).

⁵² *Ibid.*

⁵³ *Ibid.*

⁵⁴ *Ibid.*

7	International Convention on Oil Pollution Preparedness response and cooperation 1990 (OPRC 1990)	Under Consideration ⁵⁵
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Table 1.1

However, with respect the CLC, 1969, FUND, 1971 the website

<http://www.iopcfunds.org/about-us/membership/map/#member-state-83>

reported that both these instrument were denounced and the 1992 Protocol to CLC has been ratified and in force since 15.11.2000 and 1992 FUND Convention in force since 21.06.2001.⁵⁶ Further it is interesting to note that recent Bill with primary intending to amend the Merchant Shipping Act, 1958 to ensure compliance with the International Convention on Civil Liability for Bunker Oil Pollution Damage 2001.⁵⁷ The Convention ensures that adequate, prompt, and effective compensation is available to persons who suffer damage caused by oil spills, when carried as fuel in ships' bunkers. However, the same was withdrawn.⁵⁸

A Bill before the Parliament is placed in 2016 and currently pending which intends to replace

⁵⁵ *Ibid.*

⁵⁶ See, available at: <http://www.iopcfunds.org/about-us/membership/map/#member-state-83>, (Last Accessed on 30.04.2017).

⁵⁷ See, available at: <http://www.prsindia.org/billtrack/the-merchant-shipping-amendment-bill-2015-3964/>, (Last Accessed on 30.04.2017).

⁵⁸ See, available at: <http://www.prsindia.org/billtrack/the-merchant-shipping-amendment-bill-2015-3964/>, (Last Accessed on 30.04.2017).

the M.S. Act of 1958. The M.S. Bill of 2016 includes the chapters on Prevention, Containment of Pollution from Vessel and Response Civil Liability for Oil Pollution Damage and introduces Civil Liability for Bunker Oil Pollution Damage, International Oil Pollution Compensation Fund however same is not passed yet.⁵⁹

Convention and South Asian States [Bangladesh & Sri lanka]

Bangladesh

Amongst the International Conventions dealing with Marine Oil Pollution Bangladesh has ratified many of the Conventions and several Conventions and Protocols are under consideration for ratification.

S. No.	International Conventions and Protocols on Oil Pollution	Status
1	International Convention on Civil Liability for oil pollution damage, 1969	Not a Party ⁶⁰
2	Protocol to the International Convention on Civil Liability for Oil Pollution Damage, 1969 (CLC	Not a Party ⁶¹

⁵⁹ See, available at: <http://www.prsindia.org/uploads/media/Merchant%20Shipping/Merchant%20Shipping%20Bill,%202016.pdf>, (Last Accessed on 30.04.2017).

⁶⁰ See, available at: <http://www.iopcfunds.org/about-us/membership/map/>, (Last Accessed on 30.04.2017).

⁶¹ *Ibid.*

	PROT 1976)	
3	Protocol of 1992 to amend the International Convention on Civil Liability for Oil Pollution Damage 1969 (CLC PROT 1992)	Not a Party ⁶²
4	International Convention on the establishment of an International Fund for compensation of Oil Pollution Damage 1971 (FUND 1971)	Not a Party ⁶³
5	Protocol of 1992 to amend the International Convention on the establishment of an International Fund for the compensation of Oil Pollution Damage 1971(FUND PROT 1992)	Not a Party ⁶⁴
6	International Convention relating to Intervention on the High Seas in cases of Oil Pollution Casualties 1969 (Intervention 1969)	Acceded ⁶⁵

7	International Convention on Oil Pollution Preparedness response and cooperation 1990 (OPRC 1990)	Acceded ⁶⁶
8	MARPOL 73/78 Annex I	Acceded ⁶⁷

Table 1.2

Sri Lanka

Amongst the International Conventions dealing with Marine Oil Pollution Sri Lanka has ratified many of the Conventions and several Conventions and Protocols are under consideration for ratification.

S. No.	International Conventions and Protocols on Oil Pollution	Status
1.	International Convention on Civil Liability for oil pollution damage, 1969	Denounced. ⁶⁸
2	Protocol of 1992 to amend the International Convention on Civil Liability for Oil Pollution Damage 1969 (CLC PROT 1992)	Ratified and in force since 22.01.2000. ⁶⁹

⁶² *Ibid.*

⁶³ See, *available at:* <http://www.iopcfunds.org/about-us/membership/map/>, (Last Accessed on 30.04.2017).

⁶⁴ *Ibid.*

⁶⁵ See <https://www.dos.gov.bd/useful-information/imo-conventions-ratified-by-bangladesh/>, (Last Accessed on 30.04.2017).

⁶⁶ *Ibid.*

⁶⁷ *Ibid.*

⁶⁸ See, *available at:* <http://www.iopcfunds.org/about-us/membership/map/#member-state-168>, (Last Accessed on 30.04.2017).

⁶⁹ *Ibid.*

3	International Convention on the establishment of an International Fund for compensation of Oil Pollution Damage 1971 (FUND 1971)	Denounced. ⁷⁰
4	Protocol of 1992 to amend the International Convention on the establishment of an International Fund for the compensation of Oil Pollution Damage 1971(FUND PROT 1992)-	Ratified and in force since 22.01.2000. ⁷¹

Table 1.3

In Addition the Sri Lankan website <http://www.mepa.gov.lk/web/> of Marine Environment Protection Authority lists MARPOL Annex I to VI, International Convention on Oil Pollution Preparedness response and cooperation 1990 (OPRC 1990), International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001 as relevant International Convention in order to counter Marine Oil Pollution.⁷²

Conclusion

There is no doubt on the progress the world community is making with respect to development on protection, prevention of Marine Oil Pollution. Several international Conventions have come into force over the

⁷⁰ *Ibid.*

⁷¹ *Ibid.*

⁷² See, *available at:* <http://www.mepa.gov.lk/web/>, (Last Accessed on 30.04.2017).

years. The States in general have acknowledged and have united against the marine pollution. Several steps with respect to protection and prevention of oil pollution have been adopted by the States. The South Asian States such as India, Bangladesh and Sri Lanka have attempted to incorporate the Conventions they have ratified. It would be wrong to suggest that South Asian States are reluctant to ratify the International Marine Oil Pollution related conventions as India and Sri Lanka have the ratified the most important Conventions with respect to oil Pollution that is CLC. Bangladesh seems to be still deliberating on it as the available information and does not reflect on any reason for not ratifying CLC. The Indian Merchant Shipping Bill of 2016 seems to have incorporated the provision relating to OPRC, and Bunker Oil Pollution Convention along with the existing provision w.r.t. marine oil pollution, the Bill is yet to see day of light hence, the final outcome is still up for guesses.

However, some problems in the system continue to plague the South Asian States. For instance the dissemination of Information with respect to the adaptation of Convention and protocol remains an issue. For Instance the Director General Shipping website of India provides ill-updated information with respect to ratification of certain Convention. As it could be seen the website does not represent the true position of the CLC, 1969 which have been denounced and the Protocol of 1992 have been in force since denunciation. Further,

it is although provided that the State will have action plan at hand in case of Oil Spillage. The recent Oil Spillage incident near Chennai, reflects that even though there exists plan on paper the South Asian States aren't equipped enough to deal with it. Simply ratifying and incorporating provisions within the national legislation may not be the only answer but in practice implementing the steps to the 'T' may be true solution. The Chennai Oil Spill Case only exposed the issues within the South Asian States legal framework towards Maritime Oil Pollution Issues.

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