About the Institute

IPEM made a modest beginning in the year 1996, with Management and Computer Application Programmes. Today the IPEM Group of Institutions is in the forefront of imparting knowledge in the fields of Law, Education, Management and Information Technology. The IPEM Law Academy is NAAC Accredited and Affiliated to Chaudhary Charan Singh University, Meerut and approved by the Bar Council of India. IPEM Law Academy offers LL.B (3 years), B.A.LL.B (5 years) and B.Com LL.B (5 years) courses. The LL.B (3 years) course was introduced in 2005 with 180 seats, B.A.LL.B (5 years) course was introduced in 2012 with 120 seats and B.Com LL.B (5 years) was introduced in 2019 with 60 seats . This is reflected in the performance of the Students as we have 100% result with maximum 1st divisions. We provide the best placements to the students.

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Located on NH-9 Bypass (Near Vijay Nagar, Ghaziabad), adjoining East Delhi, NOIDA & Greater Noida (West), the IPEM Law Academy is well connected by all modes of public transport also.

"Admission into professional course is not an achievement but an opportunity to hone one's professional skills and one must not let it pass by"
-Rephrased from the words of **Hon'ble Dr. Zakir Husain, former President of India**

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डॉ योगेश कुमार गुप्ता

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Editor's Message

The Editorial Board of the IPEM Law Journal do hereby announce the publication of the seventh volume of its Journal. It is a matter of pride that the Journal is experiencing steady and healthy growth in circulation and readership. Research is an enduring field wherein persistent and focused efforts lead to positive results. All facets of the law are covered in the journal's articles. Contemporary advances are highlighted particularly, yet old topics are nonetheless given their proper respect and attention. The papers and articles published in the Journal are meant to appeal to a broad audience of anyone with an interest in the study of law, including professionals, academics, and students.

The Journal offers readers a chance to stay current on novel concepts and legal industry advances. The Evaluation Board, which is made up of impartial reviewers who serve as the Editorial Board, has received several research papers and articles for submission. Each manuscript has undergone a thorough review. We anticipate that the IPEM Law Journal will be a valuable resource for the legal community in terms of disseminating fresh perspectives and legal research. We thank everyone who has made a significant contribution to this Law Journal, especially the members of the Editorial Board for their tireless work. We also acknowledge the insightful suggestions and occasionally helpful advice from our Editorial Review Board. Finally, the members of the Editorial Board wish to thank the authors who submitted their papers and articles for the seventh issue of the Journal.

Any contributions in the form of research papers or articles are welcome for submission to the Editorial Board for the forthcoming issues of the Journal. Suggestions for improvement or otherwise in any part of the Journal are welcome and will be highly appreciated.

Chief Editor

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1. Contributions should not exceed 5000 words including Charts, Tables and other Graphics.
2. The Research Paper should be preceded by an Abstract, not exceeding 150 words. 3. British spellings should be followed throughout (eg. programme, not program).
4. Tables and Charts should be in black & white only. These should be serially numbered sequentially. following references to them in the text and presented on separate sheets.
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2. A second page containing the title, abstract summary (in about 150 words). In caseof multiple authors, the cover page should indicate the author to whom correspondence should be addressed to.
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डॉ योगेश कुमार गुप्ता

RELIGIOUS ETHICS IN HIGHER EDUCATION: INTEGRATION, CHALLENGES, AND IMPLICATIONS

B Radha Krishna Murthy[1]

Prof. Mamillapally Vijay Kumar Sharma[2]

ABSTRACT

Background: *Religious ethics in higher education is a crucial area of study and practice that significantly impacts students' moral and professional development. Integrating ethical principles, particularly those derived from religious traditions, becomes increasingly essential as higher education evolves.*

Problem: *This article explores the integration, challenges, and implications of religious ethics in higher education, drawing on extensive research and literature. The discussion will also include specific insights into the Indian context, where religious diversity and ethical education intersect uniquely.*

Methodology: *This research is based on an extensive literature review and analyses of ethics education programs. The study draws insights from the Indian context, examining how religious ethics are integrated into curricula and the influence of religious diversity on ethical instruction. The roles of institutional policies, faculty perspectives, and student outcomes are also explored.*

Conclusion: *Integrating religious ethics in higher education is essential for fostering well-rounded ethical development in students. However, to achieve this, institutions must address the challenges of inclusivity, educator preparation, and curriculum design. By leveraging India's rich religious and cultural heritage, higher education can provide students with a comprehensive and inclusive ethical education, preparing them for the complex moral landscape of the modern world.*

Key Words: *Curriculum Integration, Higher Education, Moral Development, Religious Ethics*

I. INTRODUCTION

"Education without ethics is like a body without a soul." — Socrates

In higher education, cultivating ethical sensibilities among students is as crucial as academic rigour. As society grapples with increasingly complex moral issues, the importance of grounding future leaders and professionals in solid ethical principles cannot be overstated. While ethics in education is often approached from a secular perspective, including religious ethics introduces a profound dimension to students' moral and intellectual development, enriching their educational experience. Religious ethics, grounded in centuries-old traditions and moral philosophies, provide diverse values and principles that can enlighten the educational journey and prepare students for the multifaceted ethical challenges they will encounter in their careers and lives (Weaver, 2023).

Contextual Background

Higher education has traditionally focused on the

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development of intellectual and technical skills. Still, there has been a growing recognition of the need to foster moral and ethical development in recent decades. Ethics in education involves more than just imparting knowledge about right and wrong; it is about nurturing the ability to think critically about moral issues, understand the ethical implications of decisions, and act with integrity '—(Yadav & Patil, 2019). Religious ethics is crucial in this context, stimulating intellectual curiosity and critical thinking. Unlike secular ethics, which is often based on universal principles such as justice, equality, and human rights, religious ethics draws from the deep well of religious traditions, offering a unique perspective on morality informed by spiritual beliefs and practices.

Integrating religious ethics into higher education is particularly valuable because it gives students a broader, more nuanced understanding of morality. It encourages them to consider ethical questions from multiple perspectives, reflect on their beliefs and values, and engage in meaningful dialogue with others with different views. This holistic approach to ethical education enhances students' moral development and equips them with the tools they need to navigate the complex moral landscape of the modern world —'''(Prayudi & Martadinata, 2020).

II. OBJECTIVE OF THE STUDY

The primary objective of this article is to explore the integration of religious ethics into higher education, focusing on the methods and strategies used to incorporate these ethical principles into the curriculum. This exploration includes an examination of the challenges that arise in this process, particularly in ensuring that such integration respects the diverse religious beliefs of students and faculty while maintaining the secular nature of academic institutions. Furthermore, the article analyses religious ethics education's implications for students and educational institutions. By integrating religious ethics, institutions can potentially enhance students' moral reasoning, cultural awareness, and professional ethics, thereby contributing to their overall personal and professional development ''''(Chen et al., 2006).

In addition, this study aims to critically assess the current state of religious ethics education in higher education, identifying best practices and areas where improvement is needed. By doing so, the article contributes to the ongoing discourse on the role of ethics in education, offering insights and recommendations for educators, policymakers, and institutions committed to fostering ethical excellence among their students ''(Walia, 2022).

The major objectives are:

1. Explore the Integration of Religious Ethics in Higher Education
2. Analyse the Implications of Religious Ethics Education

Importance in the Indian Context

The relevance of this study is particularly pronounced in the Indian context, where religious diversity is a defining characteristic of the nation's social and cultural fabric. India is a land of immense religious plurality, with Hinduism, Islam, Christianity, Sikhism, Buddhism, and Jainism, among others, all contributing to the country's rich ethical and spiritual traditions. This diversity presents both opportunities and

challenges for higher education institutions. On the one hand, integrating religious ethics into the curriculum allows for a more prosperous and inclusive educational experience, where students can learn from the ethical teachings of various religions and develop a more comprehensive understanding of morality (Weaver, 2023).

On the other hand, integrating religious ethics in a country as diverse as India requires careful consideration of inclusivity and sensitivity. Educational institutions must navigate the complex terrain of religious beliefs, ensuring that the curriculum respects and represents the diversity of students' religious backgrounds without favouring any particular tradition. This challenge is compounded by the secular nature of India's educational system, which mandates that education be free from religious bias while still allowing room for the exploration of religious ethics —''''(Prayudi & Martadinata, 2020).

Given these complexities, integrating religious ethics into higher education in India is not merely a matter of curriculum design; it is a delicate balancing act that requires thoughtful consideration of pedagogical and ethical principles. The potential benefits of such integration, however, are significant. By drawing on India's rich religious and cultural heritage, higher education institutions can provide students with a more comprehensive and inclusive ethical education, preparing them for the diverse and morally complex world they will face after graduation —''''''(Prayudi & Martadinata, 2020; Walia, 2022).

This article, therefore, seeks to illuminate the critical intersection of religious ethics and higher education in India, offering insights into how these elements can be effectively integrated to enrich the educational experience and foster the moral development of students. Through a detailed exploration of this integration's challenges, strategies, and implications, the article aims to contribute to the ongoing discourse on the role of ethics in education, both in India and beyond.

III. LITERATURE REVIEW

Integrating religious ethics in higher education has been a topic of considerable scholarly attention, with research spanning various cultural and national contexts. Globally, studies have emphasised the importance of ethical education in fostering moral reasoning and professional integrity among students. Religious ethics, in particular, has been highlighted for its ability to provide a deeper, value-based approach to ethical dilemmas, as opposed to the often abstract and impersonal frameworks of secular ethics (Weaver, 2023).

In India, where religious diversity is a defining characteristic of society, incorporating religious ethics into education is seen as a vital tool for promoting moral development and cultural understanding. Research has shown that integrating religious principles with ethical education, such as the Tri Kaya Parisudha concept from Hindu ethics, can significantly enhance students' moral judgment and ethical reasoning —''''(Prayudi & Martadinata, 2020). Studies in Indian higher education have also highlighted the role of religious ethics in promoting a holistic educational experience that aligns with the country's rich spiritual heritage ''(Walia, 2022).

Ethical Theories and Religious Traditions

Ethical education in higher education often draws from various ethical theories, each offering a different perspective on moral reasoning. Deontology, for example, emphasises the importance of following moral rules and duties, which align closely with many religious teachings that prescribe specific codes of conduct (Genç & Uddin, 2022). On the other hand, utilitarianism focuses on the outcomes of actions, aiming to maximise overall happiness or well-being, which can intersect with religious views that advocate for the greater good and community welfare ''''''''''(Jakobsen, 2019).

Virtue ethics, which emphasises the development of moral character and virtues such as courage, temperance, and justice, strongly parallels religious ethics across various traditions. For instance, Hindu ethics emphasises the pursuit of dharma (moral duty) and the cultivation of virtues such as non-violence (ahimsa) and truthfulness (satya) —''''(Prayudi & Martadinata, 2020). Similarly, Christian ethics is grounded in the teachings of Jesus, which emphasize love, compassion, and humility as key virtues (Jun & De La Rosa, 2013). Islamic ethics also integrates the teachings of the Quran and Hadith, promoting virtues such as honesty, charity, and justice (Apriliana et al., 2023).

These ethical theories are compatible with religious teachings and can be enriched by them. Integrating religious ethics into these theoretical frameworks allows for a more comprehensive approach to ethical education, considering both the moral rules and the character development essential for ethical behaviour in complex social and professional environments (Subbiondo, 2006).

Challenges Highlighted in Previous Research

Despite the potential benefits of integrating religious ethics into higher education, several challenges have been identified in the existing literature. One of the primary challenges is the tension between secularism and religious education. In many countries, including India, the educational system is founded on secular principles, which can create resistance to incorporating religious ethics in curricula (Lyon et al., 2005). Critics argue that introducing religious elements into education could undermine the secular nature of the institution and lead to potential conflicts among students of different religious backgrounds (Menachem, 2016).

Inclusivity is another significant challenge. In a diverse society like India, where multiple religions coexist, ensuring that religious ethics education is inclusive and respectful of all traditions is complex. There is a risk that focusing on one religious tradition over others could alienate students from different backgrounds, leading to feelings of exclusion or discrimination –'(Zilliacus & Kallioniemi, 2016). This issue is compounded by the potential for religious bias, where the dominant religious views of educators or institutions might influence the way religious ethics are taught, potentially marginalising minority perspectives '(Novis-Deutsch & Lifshitz, 2016).

Furthermore, the practical implementation of religious ethics in the curriculum poses challenges. Educators must be adequately trained to handle religious content sensitively and create an inclusive classroom

environment where all students feel respected and valued (Kaul et al., 2017). The need for curricular resources that are both academically rigorous and sensitive to the diverse religious beliefs of students adds another layer of complexity to the integration process(Annisa & Tabassum, 2023).

Overall, while integrating religious ethics into higher education offers significant benefits for students' moral and professional development, it must be approached with careful consideration of the challenges to ensure that it enhances rather than hinders the educational experience(Speers, 2008).

IV. METHODOLOGY

This study employs a literature-based analysis, utilising an extensive review of existing scholarly articles, institutional reports, and published case studies to explore the integration of religious ethics into higher education. This method allows for a comprehensive examination of theoretical frameworks, challenges, and practical applications of religious ethics education, particularly in the Indian context. By analysing the findings from peer-reviewed academic research and institutional documentation, the study offers insights into how ethical education, specifically religious ethics, is integrated within curricula and the broader implications for students' moral development. The case studies analysed focus on Indian institutions that have incorporated religious ethics into their educational programs. These institutions were selected based on their representation of religious diversity and their efforts to address the challenges of integrating religious ethics. The analysis of these case studies sheds light on the strategies, challenges, and outcomes of integrating religious ethics in higher education, emphasising inclusivity and navigating India's diverse religious landscape.

V. INTEGRATION OF RELIGIOUS ETHICS IN HIGHER EDUCATION

Curriculum Design

Integrating religious ethics into the higher education curriculum requires a thoughtful approach that balances academic rigor with inclusivity. Religious ethics can be introduced in courses on moral philosophy, comparative religion, or ethics in professional practice. For example, institutions like Banaras Hindu University offer courses that include comparative studies of religious ethics from Hindu, Buddhist, and Islamic perspectives, allowing students to explore diverse ethical frameworks (Cavallin & Sander, 2018). Additionally, Ashoka University includes modules on ethical reasoning in its philosophy programs, incorporating both secular and religious ethics to foster well-rounded ethical understanding (Sud et al., 2019).

In business education, ethics modules have been successfully incorporated into core subjects like marketing and finance. A project at the Wharton School designed an ethics integration model to embed ethical considerations into courses, showing that students became more willing to engage in ethical discussions when the content was systematically introduced (Dunfee & Robertson, 1988). In engineering programs, ethics has also been incorporated through tutor-based systems, such as at Drexel University, where students were taught to approach ethical issues from diverse philosophical perspectives like those of Socrates or

Confucius(McEachron et al., 2009).

Institutional Policies

Institutional policies are pivotal in successfully integrating religious ethics into higher education. Policies promoting religious diversity and inclusivity are essential for creating an environment where religious ethics can be taught respectfully and non-discriminately. Catholic colleges, for example, invest in integrating the Catholic Social Tradition (CST) into their institutional missions. Faculty engagement programs help embed CST principles into curricula, fostering an environment where ethics and religion can be discussed across multiple disciplines (Brigham, 2018).

Institutions should develop policies that promote academic freedom for faculty members to teach religious ethics without bias, ensuring a balanced curriculum. These policies create a foundation where dialogue on religious ethics can be freely pursued, as seen in some Jesuit universities where policies explicitly integrate religious ethics with social issues.

Role of Faculty

The role of faculty in teaching religious ethics is critical, as their backgrounds, beliefs, and training can significantly influence how ethics are taught. Faculty who shares the religious denomination of their institution are more likely to integrate faith-based ethics into their teaching. This is evident in studies conducted across religious colleges, where faculty alignment with institutional religious affiliation significantly predicted whether they included faith in their courses(Kaul et al., 2017).

Continuous professional development programs are essential for equipping educators with the skills to teach religious ethics in a diverse, multi-faith context. Faculty training at institutions like Delhi University includes workshops on diversity and ethics education, ensuring educators are prepared to teach religious ethics inclusively.

Student Outcomes

Religious ethics education profoundly impacts students' moral development, critical thinking, and professional ethics. Programs like the BELIEF initiative at Northern Illinois University demonstrated that structured ethics education significantly improved students' ability to recognise ethical issues and strengthened their decision-making skills (Dzuranin et al., 2013).

Furthermore, ethics education encourages critical thinking by requiring students to engage with complex, often conflicting ethical frameworks. This process helps them refine their analytical skills, enabling them to apply ethical reasoning in personal and professional contexts. Overall, students who participate in religious ethics courses are better prepared to navigate the moral complexities of their careers and contribute positively to society.

VI. CHALLENGES OF INTEGRATING RELIGIOUS ETHICS

Inclusivity and Diversity

One of the most significant challenges in integrating religious ethics into higher education is ensuring inclusivity in a diverse student body. Teaching religious ethics in a multi-faith environment can result in conflicts between students from different religious backgrounds and between religious and secular

perspectives. For example, educators may face difficulty when students from monotheistic and polytheistic traditions approach moral issues differently. To address this, institutions must ensure that religious ethics are taught in a way that respects all traditions and does not prioritise one over another '(Novis-Deutsch & Lifshitz, 2016). Furthermore, teachers must be equipped with knowledge of diverse religious traditions to prevent unintentional biases and foster an inclusive environment(Tomalin, 2007).

Secularism vs. Religious Education

There is a constant tension between maintaining secularism in educational institutions and integrating religious ethics. While religious ethics can offer valuable perspectives, institutions must also uphold the secular nature of academic education. In India, for example, secularism is a foundational principle, but this does not preclude the exploration of religious ethics in the context of universal human values (Standish, 1996). Balancing secular ideals with the inclusion of religious ethics requires careful curriculum design that focuses on ethical principles that transcend specific religious teachings.

Educator Preparedness

Educators often face significant challenges in teaching religious ethics due to a lack of training and the need for sensitivity when addressing diverse student backgrounds. Potential biases can influence how religious ethics are presented, and educators may unintentionally emphasise their beliefs. Continuous professional development programs, such as those implemented in institutions like Delhi University, are essential to prepare educators for teaching religious ethics inclusively and impartially (Jafralie & Zaver, 2019). Additionally, educators must develop intercultural sensitivity and understanding to facilitate discussions on religious ethics in diverse classrooms.

Curriculum Constraints

Another challenge is the constraints of existing curricula, which may already be overloaded with mandatory subjects, leaving limited room for incorporating religious ethics. In Quebec, for instance, implementing the Ethics and Religious Culture (ERC) program faced obstacles due to rigid curricula and the lack of teacher preparedness, which hindered its effective delivery. Institutions must explore innovative ways to embed ethical discussions into existing courses without displacing essential content (Dunfee & Robertson, 1988).

VII. IMPLICATIONS FOR HIGHER EDUCATION

Policy Implications

Integrating religious ethics into higher education requires robust policy support at both the institutional and governmental levels. Institutions should develop policies that encourage the inclusion of diverse ethical perspectives, ensuring that religious ethics is incorporated into the curriculum without bias toward any particular tradition. This includes policies that support academic freedom for faculty to explore religious ethics while maintaining a commitment to secular principles. Additionally, governments can introduce regulatory frameworks that incentivise ethical education in universities, particularly in multi-faith societies. Such frameworks could promote the inclusion of ethical training as part of accreditation requirements for higher education institutions, similar

to how some countries emphasise ethics in professional programs like law and medicine (Lyon et al., 2005).

Furthermore, institutions could establish interfaith centres that promote dialogue on religious and ethical issues, ensuring that diverse perspectives are represented. These centres can serve as a platform for discussing the integration of ethics across the curriculum and hosting workshops, seminars, and forums on ethical issues. Governments could support these initiatives through funding and policy mandates.

Educational Outcomes

Integrating religious ethics can positively impact educational outcomes by enhancing student engagement, improving campus culture, and preparing graduates to handle ethical dilemmas in their careers. Students exposed to religious ethics often demonstrate increased moral reasoning and a heightened awareness of how their decisions affect others, especially in professional contexts such as business, law, and healthcare (Dzuranin et al., 2013). Additionally, a curriculum that includes religious ethics fosters critical thinking by encouraging students to engage with complex moral issues from multiple perspectives, which can translate into better problem-solving skills in real-world situations (Jafralie & Zaver, 2019).

Moreover, integrating religious ethics can help create a more inclusive campus culture by promoting understanding between students of different religious backgrounds, ultimately leading to a more cohesive and respectful student body. This inclusivity enhances campus life and prepares students to work in increasingly diverse environments after graduation. By promoting ethical behaviour, universities can produce graduates who are technically competent and morally responsible.

Future Research Directions

Despite the positive implications of integrating religious ethics into higher education, several gaps in current research need to be addressed. Future studies could explore the longitudinal impacts of religious ethics education, tracking how students' ethical reasoning and moral development evolve over time after exposure to such curricula. For example, it would be helpful to assess whether students who receive religious ethics training are better equipped to deal with ethical dilemmas in their careers than those who do not. Comparative studies between different cultural contexts would also provide valuable insights into how religious ethics is taught and received in diverse educational environments. For instance, comparing secular and religious educational institutions could illuminate how these settings influence students' engagement with ethical issues. Additionally, the research could investigate how religious ethics is integrated into curricula in multi-faith versus mono-faith countries, highlighting each context's unique challenges and benefits.

VIII. CONCLUSION

Summary of Findings

This research explored integrating religious ethics into higher education, highlighting its critical role in fostering students' moral development and preparing them for ethical challenges in their careers. We discussed how religious ethics can be incorporated into existing curricula, the importance of institutional

policies supporting inclusivity, and the faculty's significant influence on teaching religious ethics. The challenges of balancing secularism with religious education, ensuring educator preparedness, and addressing curriculum constraints were examined. Despite these challenges, integrating religious ethics can enrich campus culture, improve student engagement, and enhance graduates' preparedness for real-world ethical dilemmas.

Final Thoughts on Integration and Challenges

While integrating religious ethics into higher education is a complex task, the potential benefits for students' moral and professional development make it worthwhile. Religious ethics fosters critical thinking, empathy, and an understanding of diverse perspectives, all of which are essential for navigating the ethical challenges of modern society. However, institutions must address challenges such as ensuring inclusivity, maintaining secular values, and adequately preparing educators. By confronting these challenges, universities can create an environment where students gain academic knowledge and develop a solid ethical foundation.

Call to Action

It is time for educators, policymakers, and institutions to prioritise the integration of religious ethics as a vital component of higher education. Institutions should develop inclusive curricula that reflect the diverse ethical traditions of their student bodies. At the same time, policymakers can support these efforts by implementing guidelines that encourage ethical education across all disciplines. Faculty must receive ongoing training to teach religious ethics impartially, ensuring they can navigate complex ethical discussions in diverse classrooms. By taking these practical steps, higher education can better prepare students to become morally responsible professionals and societal leaders.

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RELIGIOUS ETHICS IN HIGHER EDUCATION: AN ANALYSIS

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ABSTRACT

Religious ethics in higher education encompasses the intersection of faith-based ethical principles and the academic environment. This field of study examines how religious values and ethical frameworks influence educational practices, institutional policies, and student conduct within higher education settings. It explores the role of religious beliefs in shaping curriculum, promoting moral development, and addressing contemporary ethical dilemmas. By integrating religious perspectives into academic discourse, higher education institutions can enhance the ethical dimension of their programs, promote diverse viewpoints, and contribute to a more holistic educational experience. This abstract highlights the importance of understanding and integrating religious ethics in higher education in order to create a more inclusive, reflective, and ethically aware academic community. Religious ethics in higher education often involves integrating ethical principles from various religious traditions into academic settings. It can involve a wide range of approaches. Designing curriculum, incorporating ethical perspectives from different religions into courses and discussions, helping students explore how different religions address ethical and moral issues. Creating a campus culture, creating an environment where diverse religious beliefs are respected and where ethical discussions are encouraged, thereby promoting mutual understanding and tolerance. Providing resources and support for students who wish to practice their faith alongside their studies, ensuring that their religious needs and ethical concerns are addressed. Developing institutional policies that reflect ethical considerations from different religious perspectives, such as policies related to academic integrity, community service, and personal conduct. Encouraging open discussion, dialogue, and debate about the role of religion in ethics and how different religious teachings can inform ethical decision-making in both personal and professional contexts. Incorporating religious ethics into higher education can enrich students' understanding of ethics and conduct, preparing them to navigate a variety of ethical scenarios in their personal and professional lives.

Keywords: *Higher education, Religious ethics, Values, Society, ethical issues.*

I. INTRODUCTION

Academic institutions serve as settings for the convergence of intellectual, ethical, and personal development. Because of this, individuals frequently struggle with moral and ethical issues, which can be impacted by a variety of factors, including religious traditions. In order to comprehend the place of Christian ethics in higher education, this article will look at how these ethics are incorporated into institutional procedures and how they affect staff and

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students. Moral standards based on religious customs and beliefs that help people choose between good and wrong are referred to as religious ethics. The integration of religious ethics can influence student experiences, academic integrity, and institutional policy in the setting of higher education. The moral precepts and ideals that inform conduct and decision-making that are drawn from religious traditions are referred to as religious ethics. Certain educational establishments integrate religious viewpoints into their syllabuses, impacting the way subjects are instructed and the focus of the curriculum. Policies pertaining to dress rules, festivals, and the permitting of religious acts can be influenced by religious ethics. Religiously inspired ethical principles may have an impact on how students and teachers behave and interact.

Mission statements that represent an institution's basic values, which may include religious principles, guide many higher education establishments. For instance, religious teachings are frequently integrated into the missions of faith-based schools and universities, affecting how they handle ethical behavior, community service, and education. Because they are rooted in their religious traditions, these organizations usually place a strong emphasis on virtues like compassion, justice, and integrity It may entail a variety of strategies. creating curricula, including moral viewpoints from many religions in classes and conversations, and assisting students in discovering the ways in which many religions approach moral and ethical dilemmas. establishing a culture on campus that values the diversity of religious views and fosters moral dialogues in order to foster tolerance and understanding amongst people[2].

Theoretical Framework

Several theoretical frameworks are utilized to examine the function of religious ethics in higher education. Models of educational policy provide a range of perspectives for examining and resolving issues in education, each having special advantages and disadvantages. As per Akib (2010), there exist multiple types of educational policy models, such as normative, procedural, verbal, symbolic, and descriptive models. These models offer distinct perspectives and approaches. The frameworks of Ethical Relativism and Ethical Absolutism offer a context for comprehending the potential perceptions and applications of religious ethics in various academic contexts.

Regulatory models, sometimes referred to as normative models, are frameworks that set guidelines and norms for evaluating research findings and formulating policy recommendations. By providing guidance for the best course of action in response to educational difficulties, they assist policymakers (Ainscow, 2020). Normative models can have limitations due to their prescriptive character, yet they are essential for establishing best practices and benchmarks.

Secularism in Education: This theory looks at how many secular ideals permeate educational settings and how this influences the teaching of religious principles.

Integration of Faith and Learning: This viewpoint investigates the ways in which intellectual rigor and academic investigation can coexist with religious beliefs[3].

[2]*Guna, B. W. K., & Yuwantiningrum, S. E. (2024). Building Morality and Ethics Through Islamic Religious Education In Schools. IJGIE (International Journal of Graduate of Islamic Education), 5(1), 14.*

[3]*Tanaseanu-Döbler, I., & Döbler, M. (2012). Towards a Theoretical Frame for the Study of Religious Education: An Introduction. In Religious Education in Pre-Modern Europe (pp. 1-37). Brill.*

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II. IMPORTANCE OF STUDY

The importance of religious ethics in this context involves recognizing its impact on various facets of academic life and community dynamics. The incorporation of religious ethics into higher education has a big impact on how academic practices are guided, institutional cultures are shaped, and student experiences are affected. Moral guidelines for behavior and decision-making are provided by religious ethics. Integrity, respect, and accountability can be prioritized in such an environment thanks to this. Religious ethics can help students grow as individuals and as a character, encouraging virtues like compassion, honesty, and empathy.

III. REVIEW OF LITERATURE

1, According to Kotler and colleagues (2010). Assumptions and convictions that people hold to be true that are based on actual information, personal experience, or religious convictions are referred to as beliefs (Kotler, 2010 p.129).According to Rokeach, values are deeply ingrained, enduring ideas or norms that people employ to direct their behavior in a variety of contexts and beyond short-term objectives toward ultimate states of existence.

2. Rokeach, (1968). Moral judgments on what is right and wrong, which are based on national culture, will guide individual behavior. As a result, national culture is crucial in setting the moral guidelines that should be followed by everyone in a given society (Alas, 2006). Therefore, every company that does business is aware of ethics, but how much are these establishments genuinely doing to sustain an ethical culture at work and have a set of guidelines for behavior? The possibilities for "virtual" reality are vast in the digital age we live in.

3. Mann (2012). In order to prevent this kind of thing from happening, educational institutions that teach the next generation of people must implant in their students a set of values that will teach them the worth of acting morally in all facets of their lives.

4. Anwar (2014) cited Ulya and Syafei (2022) as sources. On the other hand, policy, according to (Farkhan, A., Rahmah, A., Alwatasi, U., & Setiawan, 2022) and (Risnawan, 2017), is an action driven by politics that is based on the deliberate decisions made by a government, institution, or organization with the intention of resolving problems and achieving particular objectives. Global policies are in place, but they are more likely to affect behavior than to serve as standards or guides for how activities should be performed (Hamidah, 2020). These regulations are referred to as educational policies since they are essential to the educational system.

IV. OBJECTIVE OF THE STUDY

To investigate how religious ethics are integrated into and impact higher education establishments in order to

comprehend how these moral precepts affect teaching methods, institutional regulations, and the academic environment as a whole.

V. RESEARCH METHODOLOGY

A qualitative methodology focused on creating a literature review was used in this study, which made it easier to critically and thoroughly analyze pertinent material (Snyder, 2019). This approach helps identify trends, topics, and knowledge gaps in addition to providing a thorough summary of the research issue. As a result, the study develops a solid theoretical framework and unearths fresh information that can direct further investigation. The researcher acquires a thorough and nuanced understanding of the subject by employing this literature review approach, and the findings have the potential to greatly expand the field's study and practice (Nkafl, 2005). The researcher collects and examines a wide range of sources during this procedure, including books, research reports, periodicals, scholarly articles, and other scientific data. A mixed-methods approach is used to thoroughly investigate the function and significance of religious ethics in higher education. This methodology provides a comprehensive knowledge of how religious ethics impact academic environments, institutional policies, and individual experiences by combining qualitative techniques. The methodology of the study is secondary data collection, which is the gathering and publication of data by others earlier in the process. Getting data from sources that already exist is required for this. Common sources include books, government reports, statistical databases, academic publications, market research reports, and previous research investigations. Research methodology, which ensures the validity, reliability, and ethical acquisition of research findings, is a crucial part of an organized and effective research process.

VI. STATEMENT OF THE PROBLEM

Thus, the issue is presented as a complex one including the incorporation of religious principles into higher learning. In order to promote an environment that values many viewpoints, uphold institutional integrity, and encourage ethical academic practices, institutions must carefully consider these problems.

VII. DISCUSSION & DATA ANALYSIS

The Role of Religious Ethics in Higher Education:

Within the academic community, religious ethics offer a moral framework that can direct conduct and decision-making. Religious ideas are frequently incorporated into the policies, curriculum, and codes of conduct of institutions that are associated with specific faiths.

Institutions of higher learning may place a strong emphasis on the formation of moral character and personal virtues, which can be affected by religious doctrine. This part frequently entails encouraging pupils to have morality, community involvement, and a feeling of purpose.

Curricular Integration:

The curriculum at faith-based institutions more overtly incorporates religious ethics. The institution's specific religious bent may be reflected in the theology, philosophy, and religious studies courses offered. In addition to developing students' academic and professional abilities, these institutions seek to foster students' understanding of their faith. While ethical

questions are frequently addressed in the framework of different disciplines, religious ethics may not be expressly incorporated into the curriculum in secular institutions. To solve complex challenges, corporate ethics and medical ethics, for instance, may draw on a variety of moral perspectives, including religious ones.

Ethical Dilemmas and Conflicts:

Students and faculty at higher education institutions often come from a range of religious and nonreligious backgrounds. Negotiating conflicts resulting from divergent ethical perspectives necessitates tact and a dedication to communication. It might be difficult to strike a balance between the right to free speech and tolerance for other viewpoints. Academic freedom must be balanced with the need to handle speech or behavior that could offend people who have different religious or ethical beliefs.

Community and Service:

Social justice and community service are frequently emphasized in religious ethics. A lot of universities include service learning into their curricula to encourage students to interact with and make contributions to their communities that are consistent with their moral and ethical values. Students who have similar beliefs can find a supportive community on campus thanks to the existence of faith-based groups and events. This can foster a feeling of community and present chances for spiritual development.

Institutional Policies:

Ethical norms, which may be impacted by religious values, are reflected in many institutions' codes of conduct. These guidelines set forth expectations for personal conduct, interpersonal courtesy, and academic honesty. Organizations frequently have to make allowances for religious practices, such fasting periods, dietary requirements, or holy days. It can be difficult to strike a balance between these demands and the academic calendar, but doing so is crucial to promoting students' religious life.

Challenges and Opportunities:

It is a crucial task to make sure that religious ethics do not exclude people who hold different beliefs. Institutions need to uphold their own ethical standards while working toward inclusion. Higher education institutions must modify their policies and procedures to reflect modern ideals while adhering to their fundamental beliefs as society norms on religion and ethics change.

Case Studies and Examples:

Religious Affiliation: Institutions that are religiously affiliated, like Liberty University and Notre Dame, serve as examples of how religious ethics permeate all facets of campus life, from student activities to academic programs.

Interfaith Dialogues: Conflicts can be resolved and an inclusive atmosphere can be fostered by initiatives that advance interfaith understanding and dialogue. Strong interfaith programs are implemented by universities such as Georgetown University with the goal of reducing disparities between various religious and nonreligious groups.

VIII. CONCLUSION:

Academic institutions face moral and ethical issues affected by a variety of variables, including religious traditions. These institutions serve as crucibles for intellectual, ethical, and personal development. In

particular, Christian ethics have a big impact on how institutional policies are shaped, which affects both staff and students. Through the incorporation of moral norms rooted on religious convictions, educational institutions can impact areas including curriculum development, academic honesty, and institutional regulations. A foundation for behavior and decision-making that influences clothing regulations, religious observances, and academic procedures is provided by religious ethics. Mission statements, which direct organizations in fostering values like compassion, fairness, and honesty, are also influenced by these principles. The backdrop for how religious ethics are viewed and used in educational settings is provided by theoretical frameworks like Ethical Absolutism and Ethical Relativism. The cohabitation of religious ideals with academic rigor is further explored by secularism and the merger of faith and learning. Understanding how religious ethics affect higher education emphasizes how crucial they are in forming institutional cultures and directing academic procedures. Religious ethics promote personal development and ethical maturity in pupils by highlighting values such as integrity, respect, and accountability.

IX. SUGGESTIONS:

Higher education can benefit from the inclusion of religious ethics, but doing so requires careful consideration in order to preserve academic integrity and balance differing viewpoints. The following recommendations are meant to assist organizations in successfully implementing religious ethics: Formulate regulations that clearly define the ways in which institutional processes are integrated with religious ethics. Make sure that these policies make it clear how academic freedom, student behavior, and faculty responsibilities are affected. Create laws that honor and take into account secular viewpoints while also reflecting religious values. Make sure that none of these policies exclude or marginalize people who hold different beliefs. Provide educators, employees, and administrators with instruction on ethical issues pertaining to the intersection of academic activities and religious beliefs. Training ought to provide a strong emphasis on upholding academic standards and showing tolerance for people of different beliefs.

Student Education: To assist students in understanding and addressing ethical issues in a courteous and knowledgeable manner, incorporate sections on ethics and religious diversity into academic curriculum and orientation programs.

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UNVEILING THE EPIDEMIC: ANALYZING MEDICAL MALPRACTICE TRENDS AND PREVENTION STRATEGIES IN MODERN HEALTHCARE

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ABSTRACT

Medical malpractice remains a significant concern in healthcare, impacting patient safety, trust in medical institutions, and overall healthcare outcomes. The increasing number of malpractice cases points to systemic challenges within modern healthcare systems, where errors in diagnosis, treatment, and management often result in severe patient consequences. This research paper delves into the trends and patterns of medical malpractice, analyzing how these incidences have evolved with the advancements in healthcare technologies and practices. By exploring historical and contemporary data, the paper aims to uncover the underlying causes of medical negligence and the factors contributing to its prevalence in different medical settings. Central to this study is examining prevention strategies to reduce medical errors and enhance patient safety. The paper reviews critical preventive measures such as improved medical training, standardized procedures, better communication protocols, and technological interventions, like electronic health records and AI-driven diagnostics, which have been introduced to minimize human error. Also, the research highlights the psychological and professional impact of malpractice claims on healthcare providers, focusing on the 'second victim' phenomenon, where clinicians experience emotional distress and burnout after being involved in a malpractice case. In conclusion, this study aims to offer a comprehensive understanding of the medical malpractice epidemic and identify persistent challenges and emerging solutions. It calls for a multi-faceted approach that combines legal, medical, and technological advancements to foster a healthcare system that prioritizes patient safety, reduces malpractice occurrences, and upholds ethical medical standards. The findings presented in this paper contribute to ongoing debates and reform efforts to address malpractice and enhance healthcare quality.

Keywords: *Medical Malpractice, Patient Safety, Healthcare systems, Prevention strategies, medical negligence, legal reform.*

I. INTRODUCTION

Medical Malpractice: A Critical Examination of Causes, Consequences, and Prevention Strategies. Medical malpractice, a pervasive issue in the healthcare industry, refers to instances where healthcare professionals deviate from the standard of care, leading to patient harm or injury[2] . This deviation can occur due to various factors, including negligence, miscommunication, errors in judgment, or systemic failures within healthcare institutions. The consequences of medical malpractice are far-reaching, affecting not only patient safety but also imposing significant financial burdens on healthcare systems and leading to legal repercussions for practitioners and institutions. In recent years, medical malpractice has gained considerable attention due to its alarming

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frequency and severity. The rise of complex medical procedures, technological advancements, and increasing pressure on healthcare professionals have contributed to a surge in malpractice cases worldwide. While modern healthcare has improved patient outcomes in many ways, it has also created an environment where preventable mistakes can lead to severe consequences, including permanent disability, death, and emotional trauma for patients and their families[3] . Understanding the causes of medical malpractice is crucial for developing effective strategies to prevent it. The complexity of medical malpractice lies in its multifaceted nature, involving human factors, system failures, and environmental pressures[4]. By examining historical and contemporary examples of medical malpractice, this research paper aims to identify critical causes and consequences of medical errors, including Human factors, such as fatigue, stress, and cognitive biases; systemic failures, including inadequate training, poor communication, and insufficient resources, Environmental pressures, such as time constraints, high workload, and inadequate staffing, Technological advancements, including the use of artificial intelligence, robotics, and electronic health records[5] . Also, this paper will explore the consequences of medical malpractice, including Patient harm and injury, including physical, emotional, and psychological trauma; financial burdens on healthcare systems, including litigation costs, compensation, and reputational damage; Legal repercussions for practitioners and institutions; including lawsuits, fines, and regulatory sanctions[6] . To mitigate the risks of medical malpractice, this research paper will propose evidence-based prevention strategies, including Implementing robust quality control measures, such as checklists and peer review, Enhancing communication and teamwork among healthcare professionals, Providing ongoing training and education on patient safety and risk management, Encouraging a culture of transparency, accountability, and open disclosure, Leveraging technology, such as artificial intelligence and data analytics, to identify and prevent medical errors. By examining the causes, consequences, and prevention strategies of medical malpractice, this research paper aims to contribute to developing safer, more efficient, and fairer healthcare systems. Ultimately, the goal is to ensure that healthcare professionals can provide high-quality care to patients while minimizing the risk of medical errors and their devastating consequences.

II. RESEARCH PROBLEM

The lack of understanding of medical malpractice's critical causes and consequences and the absence of effective prevention strategies hinder the development of safer and more efficient healthcare systems. The complexity of medical malpractice, involving human factors, system failures, environmental pressures, and technological advancements, necessitates a comprehensive examination of the issue to identify evidence-based solutions[7].

III. RESEARCH OBJECTIVE

1. To identify the critical causes of medical malpractice, including human factors, systemic failures, environmental pressures, technological

[3]*The Wellness Guide: Your Ultimate Resource for Holistic Health and Vitality. https://healthyhighways.com/the-wellness-guide-your-ultimate resource-for-holistic-health-and-vitality/*
[4]*The Effects of Medical Malpractice | Bertram & Graf, L.L.C. https://www.bertramgraf.com/blog/2022/december/the-effects-of-medical-malpractice/*
[5]*Hydrogen Using Novel Packed bed Electrode. https://salgenx.com/search/electrode/hydrogen-using-novel-packed-bed-electrode-001.html*
[6] *Mansfield, I. (2008). Geneva Diary: Report from the GICHD. https://core.ac.uk/download/153197899.pdf*
[7]*Captivating Travel Nurse Resume With Examples Tips 2023. https://resume-example.com/travel-nurse-resume/*

advancements, and their impact on patient safety and healthcare outcomes.

2. To examine the consequences of medical malpractice, including patient harm and injury, financial burdens on healthcare systems, and legal repercussions for practitioners and institutions.

3. To propose evidence-based prevention strategies to reduce the incidence of medical malpractice, including quality control measures, communication and teamwork enhancements, training and education, transparency and accountability, and technology-based solutions.

4. To explore the role of healthcare systems and institutions in preventing medical malpractice, including developing policies, procedures, and protocols to ensure patient safety and quality care.

IV. RESEARCH QUESTIONS

1. What are the current trends in medical malpractice cases, and how have these trends evolved over the past decade?

2. How do various healthcare systems and regulatory frameworks impact the prevalence and handling of medical malpractice cases?

3. What are the primary factors contributing to medical malpractice, and how can these factors be mitigated through prevention strategies?

4. What role does technology play in reducing or exacerbating medical malpractice, and how can technological advancements be leveraged for better outcomes?

V. METHODOLOGY

This research paper employs a qualitative approach to analyze medical malpractice trends and prevention strategies. The primary data sources include literature reviews, case law analysis, and reports from regulatory bodies in the healthcare industry. Peer-reviewed journals, case studies, and government documents were analyzed to gather insights into the causes of medical malpractice and existing prevention strategies. This study compares medical malpractice across different legal and healthcare systems by reviewing a wide range of global cases and reports.

Secondary data include statistical reports on medical malpractice cases, legal judgments, and policy papers. The methodology also incorporates an examination of recent legal reforms aimed at addressing malpractice alongside data from surveys and studies conducted by healthcare institutions. This multifaceted approach enables a thorough understanding of the systemic challenges that lead to medical errors and the legal frameworks that seek to address them.

VI. MEDICAL MALPRACTICE: HISTORICAL CONTEXT AND GLOBAL TRENDS

Medical malpractice has been a concern since the advent of organized healthcare, with the earliest recorded cases dating back to ancient civilizations like Egypt and Greece, where physicians were held accountable for harm caused to patients. In modern history, the Industrial Revolution and subsequent advancements in medical science led to the formalization of healthcare systems, prompting the need for regulatory mechanisms to address malpractice[8]

U.S.A

In the United States, the issue of medical malpractice became prominent in the 20th century as the country's

[8] *Managing Leadership Risk: The Importance of Directors and Officers Insurance in Healthcare – Northwest Regional Primary Care Association. https://www.nwrpca.org/northwest-pulse-articles/managing leadership-risk-the-importance-of-directors-and-officers-insurance-in-healthcare*

healthcare system evolved rapidly. The introduction of tort law allowed patients to file lawsuits against physicians for negligence, establishing a legal framework for holding healthcare providers accountable[9] . The U.S. continues to witness a high volume of malpractice cases, with medical errors cited as one of the leading causes of death.

U.K.

Medical malpractice claims have grown steadily in the United Kingdom in recent years. The National Health Service (NHS) has faced increased scrutiny due to increased patient claims. While the healthcare system provides universal care, there have been challenges in addressing malpractice cases efficiently[10] . Claims related to surgical errors, misdiagnosis, and delayed treatment have become more frequent, raising concerns about systemic failures.

India

Medical malpractice is a relatively newer legal concept in India, but cases have risen sharply in the last two decades. The healthcare system in India is highly fragmented, with public and private institutions operating under different regulatory mechanisms. Patients often need help seeking compensation due to a lack of awareness and limited access to legal aid. However, recent legal reforms and increased media attention have brought medical negligence to the forefront of public discourse.

Global Trends

Globally, countries with advanced healthcare systems, such as Australia and Canada, face rising malpractice cases, particularly in fields like surgery, obstetrics, and emergency care. The World Health Organization (WHO) has acknowledged that medical errors are a global concern, and numerous studies have highlighted the financial burden of malpractice on healthcare providers and patients [11].

Key Causes of Medical Malpractice

Understanding the root causes of medical malpractice is essential for developing effective prevention strategies. The following factors are commonly cited as contributing to the rise in medical errors:

- **Communication Failures**

Poor communication among healthcare professionals, patients, and administrative staff is one of the leading causes of medical malpractice[12] . Misunderstandings regarding patient history, treatment plans, and medication dosage can lead to fatal errors. Effective communication is critical in high-pressure environments like emergency rooms, yet studies show that lapses in communication are frequent, particularly in cross-team or handoff situations[13] .

- **Lack of Training and Knowledge**

A lack of adequate training and continuing medical education often results in malpractice. Medical professionals should be kept abreast of the latest medical practices and technologies, but they are at a higher risk of making errors. Training deficiencies are especially apparent in developing countries, where resource constraints make it challenging to provide ongoing professional development [14].

- **Overworked Healthcare Professionals**

Another significant contributing factor to malpractice is the overburdening of healthcare workers. Doctors

[9] *Fertin, G., Labarre, A., Rusu, I., Tannier, E., & Vialette, S. (2009). Combinatorics of Genome Rearrangements. https://core.ac.uk/download/pdf/34479217.pdf*

[10] *Malpractice panels — the solution du jour? – NH Business Review. https://www.nhbr.com/malpractice-panels-the-solution-du-jour/*

[11] *"Second, do less harm: The state of states' medical error reporting pro" by Monica Lynn Rasmus. https://digitalcommons.library.tmc.edu/dissertations/AAI3241400/*

[12] *Medical Malpractice Assignment Paper – Study Tutors. https://www.study-tutors.com/medical-malpractice-assignment-paper/*

[13] *Tripodi, E. (2020). Confined Impinging Jets: An alternative approach to traditional food emulsification techniques. https://core.ac.uk/download/457388765.pdf*

[14] *Thompson, A., & Frater, R. H. (2010). RONALD N. BRACEWELL: AN APPRECIATION. Journal of Astronomical History and Heritage. https://doi.org/10.3724/sp.j.1440-2807.2010.03.01*

and nurses often work long hours without sufficient breaks, leading to burnout and fatigue, which increases the likelihood of errors. This issue has been exacerbated by the COVID-19 pandemic, where healthcare systems were stretched to their limits, and medical errors surged as a result[15] .

- Systemic Issues in Healthcare Infrastructure

Inadequate healthcare infrastructure can lead to delayed treatment, misdiagnoses, and surgical complications. Underfunded hospitals, outdated medical equipment, and poor organizational structures create environments where mistakes are more likely to occur. In countries with underdeveloped healthcare systems, such issues are often systemic, affecting many of the population.

Analysis of Recent Medical Malpractice Cases

Analyzing recent medical malpractice cases sheds light on the trends and the legal system's role in addressing such issues.

1. Case 1: The Jackson vs. Heartland Health System (U.S.)

In this landmark U.S. case, the plaintiff, Jackson, sued Heartland Health System after a surgical error resulted in permanent disability. The jury awarded substantial compensation, citing negligence in the surgical procedure and the post-operative care. This case highlighted the importance of informed consent and the responsibility of healthcare providers to ensure patient safety[16] .

2. Case 2: NHS Litigation Authority vs. Thompson (U.K.)

Thompson, a patient under the NHS, experienced severe complications following a misdiagnosed infection. The delay in proper treatment resulted in amputation, and the patient successfully sued the NHS. The case revealed significant lapses in diagnostic procedures and delays in the treatment chain, pointing to the need for faster diagnostic protocols[17] .

3. Case 3: P.K. Sharma vs. Apollo Hospitals (India)

This case involved a patient who underwent a routine appendectomy, which led to post-operative infections and eventual death. The patient's family sued Apollo Hospitals for negligence, arguing that the surgical staff failed to follow proper procedures. The case raised awareness of the need for strict adherence to standard medical protocols and led to increased scrutiny of private hospitals in India.

Consequences of Medical Malpractice

Medical malpractice has wide-reaching consequences, affecting patients, healthcare professionals, institutions, and entire healthcare systems. These consequences can be categorized into direct and indirect impacts, with the former focusing on patient harm and the latter on the broader effects on healthcare delivery and professional integrity.

1. Impact on Patients

Patients bear the most immediate and severe consequences of medical malpractice. The effects range from physical harm to emotional distress and financial hardship. Injuries due to surgical errors, misdiagnoses, or medication mistakes can lead to prolonged illness, disability, or even death[18] . In many cases, patients are left with significant medical bills and may be unable to work, exacerbating the financial strain. Furthermore,

[15] *Ikaheimonen, T., Rautiainen, M., & Pihkala, T. (2016). Governing Ownership: A Case Study About the Board's Role in Family Business Ownership Decisions. European Conference on Innovation and Entrepreneurship, 0, 281–287.*

[16] *Frank, A. S., & Lindsey, M. C. (2008). Juries and Health Courts. The MIT Press EBooks. https://doi.org/10.7551/mitpress/9780262195720.003.0007*

[17] *Gutman, M. E. (2001). The risk manager's role in creating an organizational patient safety strategy. Journal of Healthcare Risk Management. https://doi.org/10.1002/jhrm.5600210404*

[18] *Frank, A. S., & Lindsey, M. C. (2008). Reinsurance. The MIT Press EBooks. https://doi.org/10.7551/mitpress/9780262195720.003.0010*

the emotional trauma of enduring medical malpractice can result in a loss of trust in the healthcare system and reluctance to seek future medical care.

2. Impact on Healthcare Professionals

Healthcare professionals liable for malpractice face reputational damage, legal consequences, and emotional stress. Physicians and nurses may be sued for negligence, which can result in suspending or revoking their medical licenses. In addition, the financial burden of malpractice claims can be overwhelming, especially for professionals in private practice. Studies have shown that healthcare providers involved in malpractice cases often experience professional burnout, depression, and a diminished sense of self-worth[19] .

3. Institutional Consequences

Medical malpractice has a profound impact on healthcare institutions. Hospitals and clinics must bear the financial costs of legal settlements, which can be substantial. These institutions may also face reputational damage, leading to a loss of patient trust and a decline in business. Medical malpractice insurance costs have risen significantly in many countries, with institutions passing these costs onto patients through higher fees, further straining the healthcare system.

4. Systemic Consequences

Systemically, the high incidence of medical malpractice can erode public confidence in healthcare systems. When malpractice cases dominate headlines, they contribute to a perception of widespread medical incompetence, undermining trust in the healthcare profession. Moreover, malpractice litigation can lead to "defensive medicine," where healthcare providers order excessive tests and procedures to avoid potential lawsuits. This approach increases healthcare costs and may also subject patients to unnecessary treatments, creating a cycle of inefficiency.

Prevention Strategies

Preventing medical malpractice requires a multifaceted approach, focusing on individual and systemic reforms. Effective prevention strategies should minimize human errors, improve healthcare infrastructure, and enhance legal and policy frameworks safeguarding patient safety[20] .

1. Enhancing Training and Education

One of the most effective ways to prevent medical malpractice is through the continuous training and education of healthcare professionals. Medical practitioners should receive regular updates on the latest medical technologies, treatment protocols, and ethical practices. By fostering a culture of learning and self-improvement, healthcare systems can reduce the risk of errors and improve patient outcomes[21] .

Training should also emphasize communication skills, particularly in multidisciplinary teams. Ensuring all healthcare team members are on the same page can significantly reduce misunderstandings and improve patient care. Furthermore, simulations and case-based training can help medical professionals prepare for high-risk situations where mistakes are more likely to occur.

2. Improving Hospital Systems and Technology

Healthcare systems must invest in modern technology

[19] *Janević, T. (2019). Romani maternal and child health: Moving from documenting disparities to testing progress and interventions to achieve equity. International Journal of Public Health. https://doi.org/10.1007/s00038-019-01255-8*

[20] *A Study on Medical Negligence in India: Retrospective and Prospective – International Journal of Legal Science and Innovation. https://www.ijlsi.com/paper/a-study-on-medical-negligence-in-india retrospective-and-prospective/*

[21] *Collaboration and Creativity During a Global Pandemic. https://openrepository.aut.ac.nz/items/d6a5ac85-c6f8-4ff1-9975-6f78c1e9c0dc*

to enhance patient safety. Electronic health records (EHRs) have effectively reduced miscommunication and improper documentation errors. By centralizing patient information, EHRs allow healthcare providers to access accurate and up-to-date data, which can prevent misdiagnoses and inappropriate treatments.

Additionally, hospitals should adopt standardized procedures and protocols for high-risk areas like surgery and intensive care. Checklists, for example, have been shown to reduce errors during surgeries by ensuring that all necessary steps are followed. Implementing such systems and regular audits can help healthcare institutions minimize mistakes.

3. Reducing the Workload of Healthcare Professionals

Overburdened healthcare workers are more prone to errors, so addressing the root causes of fatigue and burnout is essential. Hospitals should implement policies that limit the number of consecutive hours a medical professional can work and provide adequate breaks. Hiring additional staff to reduce workloads can also improve patient outcomes by ensuring doctors and nurses have the time and energy to provide attentive care.

4. Legal Reforms and Patient Rights

Legislative measures to prevent medical malpractice must balance holding healthcare professionals accountable and preventing an overly litigious environment. Some countries, such as Sweden and New Zealand, have adopted "no-fault" systems, where patients are compensated for medical injuries without proving negligence. This system reduces the burden on the courts and ensures that patients receive compensation more efficiently.

Healthcare systems should also focus on strengthening patient rights and informed consent. Patients must be fully aware of the risks associated with their treatments and allowed to make informed decisions about their care. Legal frameworks emphasizing transparency and accountability can help prevent malpractice by ensuring patients and healthcare providers are actively involved in the treatment process.

5. Technological Innovations and AI

The rise of artificial intelligence (AI) and machine learning offers new possibilities for reducing medical errors. AI can assist in diagnostic procedures by analyzing vast amounts of medical data quickly and accurately. AI systems can also identify patterns in patient outcomes, helping healthcare providers make more informed decisions. While AI is not a replacement for human judgment, its use as a support tool can significantly reduce the risk of error, especially in complex cases.

The Role of Legal Systems in Addressing Medical Malpractice

Legal systems are pivotal in addressing medical malpractice by providing accountability, compensation, and deterrence mechanisms. However, these systems' effectiveness varies across countries based on their healthcare structures and legal frameworks.

1. Common Law Systems (U.S. and U.K.)

In countries like the U.S. and U.K., medical malpractice claims are typically handled under tort law. Patients must prove negligence on the part of healthcare providers, which involves demonstrating that the

provider breached the duty of care and that this breach directly caused harm. While these systems allow for patient compensation, they often lead to lengthy and expensive litigation. In the U.S., malpractice cases can take years to resolve, with high legal fees contributing to the overall cost of healthcare.

2. No-Fault Systems (Sweden and New Zealand)

In contrast, countries like Sweden and New Zealand have adopted no-fault compensation systems, where patients receive compensation for injuries without proving negligence. This system prioritizes patient well-being and reduces the adversarial nature of malpractice litigation[22] . No-fault systems are generally less costly and faster than traditional malpractice suits, making them an attractive option for countries looking to reduce the financial burden of malpractice.

3. The Role of Regulatory Bodies

Regulatory bodies, such as medical boards and health commissions, are crucial in overseeing healthcare standards and addressing malpractice. These bodies are responsible for investigating complaints, disciplining negligent healthcare providers, and ensuring medical professionals adhere to ethical guidelines. In many countries, regulatory bodies can suspend or revoke medical licenses in cases of gross negligence[23] .

However, there is ongoing debate about the effectiveness of regulatory bodies in preventing malpractice. Some critics argue that these organizations are too lenient on healthcare providers, while others believe excessive regulation can stifle innovation and discourage talented individuals from entering the medical field.

VI. CONCLUSION

Medical malpractice remains a significant challenge in modern healthcare, with far-reaching consequences for patients, healthcare providers, and institutions. The rising number of malpractice cases underscores the need for comprehensive strategies that address both individual and systemic causes of medical errors. Through improved training, better communication, technological innovation, and legal reforms, healthcare systems can mitigate the risks associated with malpractice[24]. .While no system can eliminate medical errors, adopting a multifaceted approach that prioritizes patient safety and accountability will help reduce the incidence of malpractice and improve the overall quality of care. Legal reforms, particularly the introduction of no-fault systems, offer a promising alternative to traditional litigation and can provide more efficient resolutions for affected patients. As healthcare evolves, medical professionals, institutions, and policymakers must collaborate to prevent malpractice and foster a culture of safety and trust in the medical field

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ETHICS AND MORALITY IN GLOBAL LEGAL STUDIES: IMPACT ON WOMEN EMPOWERMENT IN INDIA

- Dr. Brinda Gobind Gurbuxani [1]

ABSTRACT

"The moral arc of the universe bends at the elbow of justice, and it is our ethical duty to ensure that this bend uplifts and empowers women in every corner of the globe." - Michelle Obama

Morality and ethics in global legal studies encompass the examination of universal principles guiding human conduct within legal frameworks worldwide. They dictate the ethical responsibilities of legal professionals, influence legislative decisions, and shape policies aimed at fostering justice, equality, and human rights on a global scale. Moral and ethical practices in the Indian education system traces back to ancient times, with emphasis placed on virtues like dharma (righteousness) and karma (action). The Vedas and Upanishads imparted moral values alongside academic knowledge. During the Maurya and Gupta periods, education centres like Takshashila and Nalanda integrated ethics into their curricula. The medieval era witnessed Bhakti and Sufi movements, which further emphasized the moral conduct and social justice. However, the colonial rule period introduced Western education system, but often neglected moral teachings. The post-independence era, efforts to revive ethical education have been ongoing, aiming to infuse moral values alongside academic learning. Righteous and conscientious approach under legal studies is pivotal in shaping policies that advance women's empowerment in India. Ensuring gender equity in laws and their enforcement fosters social justice. Upholding ethical standards within legal frameworks is essential for dismantling systemic barriers and promoting equality, thus empowering women.

This research paper by delving into the ethical dimensions of global legal studies and its profound implications for women's empowerment in India, sheds light on the moral imperatives guiding legislative decisions and policy implementations. Drawing from a descriptive-normative inductive reasoning approach, the research explores how ethical considerations embedded within legal systems influence societal attitudes and behaviours towards gender equality and women's rights.

Through explanatory, ethnographic phenomenology qualitative research based on methods of descriptive-normative inductive reasoning, the researcher has examined and relied upon relevant literature review, conference proceedings, journals, contemporary case studies and historical precedents to elucidates the intricate relationship between ethical principles and the promotion of women's empowerment and also underscores the importance of integrating ethical education within legal curricula to cultivate a values-based approach towards gender justice and inclusivity.

The paper also examines the challenges and opportunities inherent in aligning ethical practices with legal frameworks to enhance women's empowerment in India. It discusses the complexities of navigating cultural norms, institutional biases, and

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power dynamics that shape legal systems and influence gender relations.

Ultimately, this research contributes to ongoing discourse on the ethical dimensions of global legal studies and underscores the imperative of ethical considerations in advancing women's empowerment. By illuminating innovative strategies, recommendations and practices the research work offers vision into transformative approaches to address gender disparities, promote equitable, inclusive society and sustainable development in India and beyond, by application of principled and virtuous global legal studies.

Keywords: *Ethics, Morality, Legal, Women, Empowerment.*

I. INTRODUCTION

Ethics and morality shape the principles and values that guide legal professionals worldwide and are considered to as crucial pillars of global legal education. These elements ensure that future generations lawyers, judges, and legal scholars uphold justice, fairness, and integrity in their work culture. Ethics is defined as the array of moral principles governing behaviour, and morality, encompassing broader societal beliefs about right and wrong. Being integral to the credibility and function of the legal profession these ethical and morality principles need to be incorporated into the legal education. These principles foster professional accountability, ensuring legal practitioners practice their significant authority with accountability. It also upholds public trust which is essential for the integrity of legal institutions and promote ethical conduct. Additionally, it equips legal professionals to navigate complex moral dilemmas and diverse cultural contexts inherent in global legal practice. Legal curricula around the world address the need to incorporate morale principles using dedicated courses on legal ethics, case studies, moot courts, and simulations, which provide practical ethical training. Despite challenges such as the diversity of legal systems and evolving societal norms, a strong ethical foundation is imperious to inducted in legal education curriculum. This ethical foundation prepares legal professionals to face moral challenges proficiently and make contribution towards a just and equitable legal system on a global scale.

In the diverse demographic context of India, these principles ensure that future legal professionals uphold justice, integrity, and accountability within a diverse and complex legal framework and also the Constitution of India. Incorporating ethics into the legal education syllabus through dedicated courses, case studies, and practical training, legal education in India emphasizes professional responsibility and public trust in legal professionals. This ethical foundation is crucial for navigating India's unique cultural, societal, demographic and legal landscape, preparing future generation legal practitioners to address moral dilemmas, upholding the legacy of strong history of legal practitioner in the past to implement the rule of law in effective and just manner, thereby strengthening the credibility and integrity of the Indian judicial system and also the Constitution of India.

The ethical legal education pattern, which promotes gender equality, strengthens women's legal rights, and supports their social and economic advancement, ultimately contributing to a more just and equitable Indian society for women and contribute to the constitutional vision of an equal society.

II. OBJECTIVES OF THE STUDY

This research paper tries to examine the intersection of

ethics and morality in global legal education prospectus and influence of this blending of professional globally recognized ethics and morality in law education, on women's empowerment in India. The researcher aims to analyse the integration of global ethical principles in legal education system of India and highlights how these frameworks promote gender equality and enhance women's rights in India. It investigates the role of ethical training in preparing legal professionals to address gender-specific issues and support women's social, economic, and political empowerment. Through case studies and policy analysis, the paper demonstrates how a robust ethical outline in legal education can contribute to the progression of women's position in Indian society.

III. METHOD OF STUDY

Exploratory, descriptive doctrinal method allowing the researcher to use deductive reasoning is used in this study and the researcher has relied upon relevant literature review, conference proceedings, journals, case laws, past articles, parliamentary debates, law reports and precedents for this study.

IV. DISCUSSION

Study:

Ethics and morality in global legal studies are of vital and dynamic importances in empowerment of women in India. Fostering commitments of justice, reasonability, equality, and ethics in the legal education system equips the future generations of legal professionals with the tools to advocacy for women's rights effectively. With continued emphasis on ethical training in legal education system will significantly contribute towards a just and equitable society and legal structure in India. Ethics and morality are two crucial ingredients of global legal studies and these principles prepares a strong foundation to achieve a fair and just legal practice. The integration of these principles within legal teaching impacts positively in women's enablement in the country. The role of ethical and moral training in shaping legal professionals, who can advance and use law as a means towards gender equality and also to strengthen women's rights within the Indian legal framework. Ethics in legal education comprehends the high moral standards and principles guiding the conduct of legal professionals in a just and proper manner. Integrity, confidentiality, competence, and the avoidance of conflicts of interest are some of the basics of ethical practices needs to be incorporated in the legal educational curricula to meet the global standards. Morality, refers to the broader societal norms and values regarding examination and decision of right and wrong. In the very context of legal education system, integrating these moral concepts guarantees that future generations of lawyers and judges are skilled in the field of law and are also committed to uphold philosophies of justice and fairness.

The Indian legal education system has seen significant reforms over the past few decades, emphasizing the importance of ethical training. The statutory body governing the Law education in India now include dedicated curriculum on legal ethics, professional responsibility, and human rights. These syllabuses are designed to equip aspiring law practitioners and students with the necessary moral frameworks to address complex legal and social issues in Indian society, including gender discrimination and women's rights. Upliftment of oppressed gender in India involves enhancing social, economic, political, and

legal status and participation of women. Legal empowerment is predominantly crucial as it provides them with the tools to combat against the gender-discrimination, lack of access to justice, and also claim their rights guaranteed by the Constitution. The Constitution of India through its provisions and protections against discrimination and various laws, such as the Protection of Women from Domestic Violence Act, the Dowry Prohibition Act, the Prevention of Sexual Harassment of Women at Workplace Act and many other acts aim to protect women's, uphold their legally enforceable rights and also promote gender equality.

The inclusion of ethical and morality in global legal education and infusion of such high standards in our legal study curriculum will have various positive impact on women's empowerment in India. Some of these are discussed in a brief manner in following paragraphs:

1. Promoting Gender Equality: Ethical legal schooling educates, empower and provides tools in hand for the future legal professionals with commitment to achieve gender equality. This international standard will reflect in their advocacy policies and practices that support women's rights. The understanding of ethical implications of gender discrimination, lawyers and judges will be well prepared to tackle the challenge of injustices and aim to promote equality.

2. Strengthening Legal Representation: The next generation of lawyers with armed with strong ethical foundations will be much more competent and dedicated to representation to women facing legal issues and challenges. The legal professional trained with high standard of global ethical practices will be equipped in handling cases of domestic violence, sexual harassment, and discrimination with the sensitivity and seriousness they deserve.

3. Policy Advocacy: The impartment on global ethical training in legal education also encourages legal professionals to engage in policy advocacy, pushing for legal reforms that benefit women such as stricter enforcement of present-day laws and passing new legislations to address emerging issues affecting women.

4. Public Trust and Credibility: The legal professionals trained to adhere high ethical standards will contribute in building trust of public in the legal system specially women. The grassroot level public at large will be more likely to seek legal help and assert their rights when they have strong faith in the legal system that it is fair and just.

V. CONCLUSION:

The role of public interest litigation (PIL) in advancing women's rights has been significant in past and there exists a golden history of judicial activism for achieving a just, equitable and egalitarian society. Legal professionals trained in ethical advocacy have successfully used these judicial tools and safeguards to challenge discriminatory practices and secure justice for women. Despite significant progress, challenges remain in fully integrating ethics and morality into legal education and practice and there is a burning need for continuous training and awareness programs for practicing lawyers, judges and the new comers to the judiciary through dedicated legal education which must address cultural and societal norms that perpetuate gender biases.

patients, healthcare providers, and institutions. The

rising number of malpractice cases underscores the need for comprehensive strategies that address both individual and systemic causes of medical errors. Through improved training, better communication, technological innovation, and legal reforms, healthcare systems can mitigate the risks associated with malpractice. .While no system can eliminate medical errors, adopting a multifaceted approach that prioritizes patient safety and accountability will help reduce the incidence of malpractice and improve the overall quality of care. Legal reforms, particularly the introduction of no-fault systems, offer a promising alternative to traditional litigation and can provide more efficient resolutions for affected patients. As healthcare evolves, medical professionals, institutions, and policymakers must collaborate to prevent malpractice and foster a culture of safety and trust in the medical field

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DICHOTOMY IN ETHICAL LAWYERING

Dr. Shruti V. Kamat Dalal [1]

ABSTRACT

Legal profession is born in the cradle of nobility. Since time immemorial the profession has sketched standards that command respect and esteem in the eyes of law. The norms and etiquette laid down by the Advocates Act 1961 and the regulatory body govern the sacrosanct existence of an Advocate. Justice dispensing system repose trust in the officer of the Court to the extent that integrity which is one of the lamp of Advocacy, shall neither be compromised nor crucified.

However, over a period of time, it is noticed that the profession is losing its significance. More so it is acknowledged as masqueraded which has become the most disturbing and distressing focal point of concern. The vision of Society and Judiciary towards an Advocate has been skeptic that has raised numerous questions on duties of an Advocate.

As justice cannot be tormented in any circumstance, the looming crisis solicits regulatory bodies, law schools and stakeholders to act in order to preserve the sanctity of the noble profession.

Key words: *Advocate, ethics, legal profession*

I. INTRODUCTION

The reflection of legal profession is manifestation of justice. This can be analysed from the actions of those lawyers who have eloquently contributed in structuring India's legal landscape and who are remembered for occupying an enviable position in the freedom struggle of the Nation, They include Mohandas Karamchand Gandhi popularly known as Mahatma Gandhi, Dr. B.R.Ambedkar, Motilal Nehru and Jawaharlal Nehru. It is also pertinent to mention eminent lawyers who have left an enduring mark in the Country's legal system and they are Nani Palkhiwala, Ram Jethmalani, Fali S. Nariman, Soli Sorabjee, V.R. Krishna Iyer amongst others[2].

Thus a lawyer had, has and will have a key role to play when it comes to client or the litigant who is the seeker of justice on one hand, and the court which is an institution that imparts justice on the other hand. The profession therefore carries a birth mark of nobility and is looked upon with high dignity. However, this is determined by how ethical the member of the legal profession is.

II. METHODOLOGY

In this Paper the researcher has randomly reviewed prominent judgments of the Apex Court of the Country and the States where the Courts have expressed their alarming distress on the ever diminishing standards adopted by the Advocates in the field of legal profession. Upon analysis of the 'Dichotomy in Ethical Lawyering', the researcher has proceeded to give

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[2]*Web, H. (2024, Feb 7). 10 Most Influential Indian Lawyers and Scholars. Retrieved June 5, 2024, from medium.com: https://medium.com/heritage-digest/10-most-influential-indian-lawyers-and-scholars-7c92c8a28c3d*

suggestions.

III. DISCUSSION

NOBILITY INTEGRAL TO LEGAL PROFESSION

Since ages legal profession is looked upon with utmost dignity and respect not only by the seeker of justice but also society at large. The Apex Court in ***Shambhu Ram Yadav v. Hanum Das Khatry***[3] upholding the nobility of the legal profession and delivery of justice held that, path of honesty must prevail over mischief.

In fact, ethical rules lay prominence on competence in the legal profession, integrity, objectivity and confidentiality which are expected to reflect in the character and conduct of an Advocate[4]. Principles that determine the conduct of an individual within and beyond the parameters of profession are referred as ethics. Further, analyzing the differentiation between right and wrong is also taught by the code of ethics. In fact ethical principles are expected to be imbibed at the nascent stage of legal education by the law schools. A law student in course of time becomes the member of the Bar.

Here it is pertinent to mention that integrity perishes when poked with dishonesty, and the ethical code of conduct becomes insignificant when its defiance is witnessed in the field of practice.

Advocates Act and Bar Council Rules

The conduct of the Advocates is governed by the Advocates Act, 1961 and the Bar Council of India Rules. Bar Council of India (BCI) is a statutory body constituted by the Parliament[5]. The standards of professional conduct and etiquette for advocates are laid down by the statute[6]. Whereas, the rules to be observed and followed by the Advocates are framed by BCI. Besides other noted duties, an Advocate has a legal obligation towards his client, so also the court of law.

The role of BCI is enumerated under the Advocates Act 1961[7]. Taking into account functioning of this statutory body, it can be concluded that BCI does not permit disablement of Justice system in any form. Bar Council discharges public duty and is obligated to uphold the honour of the legal profession. Advocates are members of Bar associations and are subject to disciplinary jurisdiction of Bar Councils. If the situation arises, Bar Council of the State or of India devoid of bias is required not only to penalize the Contemnor Advocate, but also equally assist the Apex Court whenever professional standards and etiquette are disguised and dignity of the legal profession is vituperated[8]. Thus the conduct of an Advocate is controlled by Bar Councils, wherein right to practice of an Advocate can be regulated[9].

Conditions on which an Advocate shall practice in the subordinate courts and High Courts of the territory of India are framed by the High Courts through rules[10]. The Constitution of India also empowers Apex Court to set rules that determine the court practice and procedure[11]. It is the Supreme Court which is the ultimate appellate authority in deciding disciplinary matters initiated against an Advocate[12]. Though the

[3] *AIR 2001 SC 2509*

[4] *(Network, 2021)*

Network, L. N. (2021, Dec 5). Importance Of Ethics In Legal Profession : Lecture By Justice AS Oka. Retrieved June 6, 2024, from livelaw.in : https://www.livelaw.in/top-stories/importance-of-ethics-in-legal profession-lecture-by-justice-as-oka-186983

5Section 4 The Advocates Act, 1961

6Chapter V, Conduct of Advocates, The Advocates Act, 1961

7Section 7 The Advocates Act, 1961

8Bar Association v. Union of India, (1998) 4 SCC 409

9Section 49 The Advocates Act, 1961

10Section 34 The Advocates Act, 1961

11Article 145 The Constitution of India

12Section 38 The Advocates Act, 1961

conduct of an Advocate is controlled by Bar Council; Apex Court of the Country and the High Courts of the States in the capacity being the highest court of appeal within their jurisdiction and by virtue of being authorized by the Indian Constitution and the Advocates Act may utilize the whip by framing rules for penalizing the Advocates for their unprofessional conduct and for disrupting the court practice and procedure. Hence such regulations relating to orderly functioning of the courts cannot be overruled by the Bar Councils has been specified by the Supreme Court[13].

By giving a clarity that the other provisions of Advocates Act on one side and section 34 of the statute and Article 145 of the Constitution on the other side can be effectively enforced devoid of conflict, the Apex Court stated that, an Advocate has no absolute right of appearance before the court and the same is subject to compliance of the conditions set by the courts, whereas BCI is empowered to set conditions of practice outside the courts[14].

Ethics at conflict in Legal Profession

Values are implanted much before a law student embarks the journey of professional practice. Therefore, they need to be built when the student pursues legal education. The significance of societal duties in the professional life of an Advocate are overshadowed specially when law schools over emphasise the analytical reasoning of claims and defences while disseminating legal education[15]. The phase of die-hard competition in the profession further increases the craving for prestige and success. At this juncture it is not sensed by an Advocate whether this craving will lead him on the right or the wrong path. Its implication is corrosion of ethical values and professional standards.

Discourse on ethics always raises contentious issues when it comes to an Advocate. Supreme Court Judge, Justice Abhay S Oka made a mention of a significant but a silent ethical principle while delivering a lecture which expresses the duty of an Advocate, which is, not to waste time of the court[16].

In ***Simara Foods Pvt. Ltd. v. State of Rajasthan & Anr.***[17] the High Court quashed the FIR that arose out of disputes which were of civil and commercial nature and held that, criminalization of such disputes would amount to using legal process to accomplish unlawful purpose. Emphasising the role of an Advocate it was specified that his duty is to prohibit flippant criminal matters. It was observed by the court[18] that instruction of the client if unethical should be corrected through unbiased and sincere advice given by the Advocate, even if the guidance given doesn't match the verbal outcome expressed by the client. This is where the Advocate is expected to uphold the ethical principles enumerated by the legal profession in the interest of justice.

The High Court referred the case of ***Lakhan Pralhad Misal v. The State of Maharashtra***[19] to the Bar Council for initiating disciplinary proceedings against the lawyers involved and expressed that the case is an

[13] *Ex–Capt. Harish Uppal v. Union of India, (2003) 2 SCC 45*

[14] *Ibid*

[15] *(Sengupta)*

Sengupta, I. (n.d.). Nurturing Caring Lawyers: Rethinking Professional Ethics And Responsibility in India. Journal of Indian Law and Society, 5(Winter), 36. Retrieved June 7, 2024, from http://docs.manupatra.in/newsline/articles/Upload/E45CDC05–BF94–46F6–A9A3–81424EE2DABD.pdf

[16] *Supra Note 3*

[17] *S.B Criminal Miscellaneous Petition No. 4109/2023, Judgement pronounced on 10/05/2024, High Court of Judicature for Rajasthan Bench at Jaipur*

[18] *Ibid*

[19] *Bail Application No. 913 of 2023, The High Court of Judicature at Bombay Bench at Aurangabad*

illustration of demeaning legal occupation. It was found that the court was misled, and question on trust was raised on the counsels as officers of the court. In this matter, the counsels tried to secure bail by placing on record an affidavit of eye-witness of the incident who was in live-in relationship with the accused, and this was not brought to the knowledge of the complainant[20]. The court observed that this is a clear case of satisfying the client, where the client is ruling the legal profession and the lawyers have stooped to the level of providing result driven service to them[21]. However, Court considered the unconditional apology tendered by the lawyers involved in the matter and the fact that the career of the Junior lawyer would be at stake, ordered withdrawal of disciplinary action by the Bar council[22].

Commercialization of legal practice has further undervalued the sanctity of the profession[23]. Election of pecuniary gain over and above legal obligations corrodes the nobility of the profession and makes justice delivery inaccessible to the needy. It is observed by the Apex Court that, the public will believe in the legal system only if they are assured about the legal profession[24]. The Apex Court in ***B. Sunitha v. The State of Telangana***[25] held that, the fee charged by an Advocate cannot be based on result of the case or the decretal sum[26]. In yet another case of ***Javed Ansari v. State of Uttar Pradesh***[27] , Counsel appearing for the accused in a matter for grant of bail stated before the court that the counsel for the informant / complainant has no objection if bail application is processed in favour of the accused. Immediately it was brought to the notice of the court that counsel for the informant had forged the vakalatnama and had colluded with the counsel for the accused only with the motive to obtain bail stealthily[28]. The counsel for the informant agreed with the fact placed before the court and stated that he had acted as per the instructions given by the Advocate appearing for the accused, his service fee was paid and this was mainly done so that the court must believe and not issue notices to the complainant/informant considering the gravity of the charges[29]. Upon tendering unconditional apology, the counsel for the informant withdrew his vakalatnama, however, counsel for the accused asserted that such a practice is common in the High Court and was not apologetic for his act[30]. The court blamed both the counsels and expressed deep pain after witnessing the downfall of the moral values of the profession by those Advocates one of which had forty years and another twenty-six years of experience in the field of practice[31].

It was observed by the Court[32] that Bar and Bench are tied through element of trust and in the judicial system lawyers play a pivotal role. Legal profession is self-regulating one and its ethical principles establishes the rule of law. Therefore, Bar and Bench jointly are bound by moral duty to uphold the majesty of the profession

[20] *Ibid*

[21] *Ibid*

[22] *Ibid*

[23] *Tahil Ram Issardas Sadarangani v. Ramchand Issardas Sadarangani, 1993 Supp. (3) SCC 256*

[24] *See also V.C. Rangadurai v. D. Gopalan, (1979) 1 SCC 308.*

[25] *AIR 2017 SC 5727.*

[26] *Rule 20 of Part VI, Chapter II, Section II of the Standard of Professional Conduct and Etiquette, Bar Council of India Rules.*

[27] *Criminal Misc. Bail Application No. 27194 of 2021, High Court of Judicature at Allahabad.*

[28] *Ibid.*

[29] *Ibid.*

[30] *Ibid.*

[31] *Ibid.*

[32] *Javed Ansari v. State of Uttar Pradesh, Criminal Misc. Bail Application No. 27194 of 2021, High Court of Judicature at Allahabad.*

as well as justice delivery system. It was stated by the court that filing of vakalatnama gives rise to responsibility and this step must not be detrimental to the legal right and interest of the litigants[33]. As a matter of caution the Court[34] suggested that identity proof copy which is self-attested be attached to vakalatnama when filed before the court of law. Aadhar Card copy reflecting contact details in such a case was proposed.

Another area of concern is, any resolution passed by the Bar Association denying to defend any party in a specific matter vilifies the profession and denigrates the legal community. As indicated in the Bar Council Rules, only in specific circumstances which are justifiable an Advocate may refuse to accept the brief but not otherwise[35]. This fortifies the fundamental right of consultation and defence through practicing Advocate of choice which is guaranteed to an arrested person by the Indian Constitution[36]. In addition, right to legal aid under life and personal liberty is also guaranteed under Part III of the Constitution[37]. In ***A.S. Mohammad Rafi v. State of Tamil Nadu[38]*** , Apex Court of India opined that resolution passed by the Bar Association for refusing to accept the brief and appear for an accused, is a nullity as it not only opposes the rule of law but also democracy and goes against the constitutional norms and professional ethics.

Supreme Court of the country has addressed also a disturbing issue which is, whether a lawyer has a right to strike and can refrain from showing his appearance before the court of law. A reference of the conclusion stated by the Delhi High Court after considering Apex Court decisions was given, wherein this question is addressed in the negative[39]. It is clearly stated that such abstinence amounts to breach of professional duty, contractual breach along with breach of trust and would also amount to professional misconduct, especially when an Advocate has consented and produced vakalatnama on behalf of the party[40]. Abstinence cannot be counted as a fundamental right, whereas this transgresses right of speedy trial, the right of which is evolved through right to life and personal liberty guaranteed to a litigant[41]. Hence, right to strike even if in compliance with the commitment of boycott call given to association of lawyers cannot be permitted as it even affects administration of justice[42]. Bar Councils are even authorized to initiate disciplinary action against the members of the Bar Association for calling strike, was stated by the Supreme Court[43].

Added to this the Courts are paralysed to their disadvantage and have to unduly sacrifice their Judicial business. Also, another lawyer is clogged from discharging one's professional duty. Thus the act of a lawyer going on strike when he is required to show his presence / appearance before the court of law amounts to criminal contempt of court, is illegal, unprofessional, unethical and is liable for penal consequence[44]. Therefore absence of an Advocate can be considered only if permitted by Chief Justice or the District Judge

[33] *Ibid.*
[34] *Ibid.*
[35] *Bar Council of India Rules.*
[36] *Article 22(1) The Constitution of India*
[37] *Article 21 The Constitution of India*
[38] *Supreme Court, 6th December 2010.*
[39] *Supra n.12*
[40] *Ibid*
[41] *Hussainara Khatoon v. Home Secretary, State of Bihar, (1980) 1 SCC 81: AIR 1979 SC 1360.*
[42] *Supra n.12*
[43] *Ibid*
[44] *Ibid*

and prior approval through consultation has be obtained by the Bar[45]. The Apex Court has taken a stupendous move to hold the Advocate personally liable and to compensate the client for the loss suffered in cases of violations[46]. However, the Court relaxed the position and further stated that a daylong protest[47] of the lawyers may be ignored when dignity and independence of Bar and Judicial system is undermined[48].

Despite this move by the Apex Court, there are instances[49] wherein lawyers boycott court proceedings, take law in their hands and prohibit the fellow colleagues from representing the litigants before the Court of law. A Senior Advocate had been to the District Court, Ghaziabad to represent his client on the day when the Ghaziabad Bar Association members were evading the court proceedings in compliance with boycott call[50]. The Bar Association President along with other associates prohibited the Senior Advocate from showing his presence in the Court and in the course misbehaved to the extent of even tearing his Advocate's band[51].

IV. CONCLUSION & SUGGESTIONS

Conclusion

Legal profession is a noble calling. Administration of justice where court of law and lawyers play a major role set an edifice for building a civilized society. Since time immemorial lawyers are placed at a pedestal of high esteem as they have played a major role in navigating their ideas in drafting the Indian Constitution and as situation demands have communicated their thoughts and expressions in configuring the laws in force. This makes an Advocate a responsible professional who is a model in the eyes of public. The enviable position occupied by the lawyers considering their intellect make them conduct themselves in an ideal manner in their professional, personal and public life. The illuminating dignity and sincere devotion of an Advocate towards the profession preserves the public trust and confidence and elevates the credibility of the members in the occupation.

Any dereliction of duties by an Advocate affects adversely not only the ethical standards of the legal profession, but its serious consequence is faced by the litigant who sincerely appeal for justice before the court of law. In this turmoil the solemn duty of the courts of imparting justice is also crucified. Hope lawyers understand at earliest that public trust and confidence in the legal system cannot be left splintered by making ethical principles negotiable with times.

Suggestion

Over a period of time legal profession is projecting ever diminishing standards coupled with considerable decline in the public trust and confidence. It is therefore suggested that,

1) Structuring a differing contour of professional responsibility which has to be taught at the law schools. It is imperative that law students should have a

[45] *Ibid*

[46] *Ibid*

[47] *It can be expressed through electronic and / or print media, physically denoted and should not be within the court premises.*

[48] *Supra n.12*

[49] *(Malviya, 2022)*

Malviya, D. (2022, Dec 6). "Suspension Won't Do, Need Major Steps" : Supreme Court Asks Bar Council Of India To Act Against Advocates' Strikes. Retrieved June 8, 2024, from livelaw.in: https://www.livelaw.in/top-stories/suspension-wont-do-need-major-steps-supreme-court-asks-bar-council-of-india-to-act-against-advocates-strikes-215939

[50] *(India)*

India, B. C. (n.d.). Bar Council of India Certified Copy of the Extract of the decision of the Council taken by circulation on 21.03.2024. Retrieved June 8, 2024, from livelaw.in: https://www.livelaw.in/pdf_upload/extract-on-21032024-529578.pdf

[51] *Ibid*

profound understanding of the code of ethics that define the legal profession as they are embarking their law career.

2) A lawyer is also a social engineer. The duties of a legal professional encompasses ethical and a moral base, hence an Advocate cannot work in disjunction with social mores. Hence, upon becoming an Advocate, when a law student is obliged to perform the legal duty, it is imperative that contemporary societal problems are acknowledged, anatomized and addressed[52]. Therefore, the curriculum at the law schools must be embedded with socially relevant legal education[53]. This makes an Advocate equally responsible to comprehend the moral dimensions of the legal profession.

3) Loss suffered by the client or the Justice delivery mechanism in any form due to negligence or mischief or uncalled protests/strikes or dereliction of legal obligations and duties by Advocates must be redeemed from the concerned Advocate in the form of costs and damages levied by the Bar Council of India or by the court of law.

4) Senior Advocates are expected to raise the standard of Bar by guiding the Junior Advocates on ethical and moral principles coupled with focusing on learning the profession with hardwork, perseverance and dedication, and not the tricks in the occupation. Instances where wrong is anticipated has to be prevented and corrected.

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[52] *(Baxi)*

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RESEARCH ETHICS IN HIGHER EDUCATION

Shamsheer Ahmed [1]

ABSTRACT

In higher education, research ethics refers to the moral precepts and directives that govern the conduct of research in academic institutions. Ensuring that research is conducted responsibly, with respect for participants, and with integrity is contingent upon these principles. In order to ensure that participants are aware of the nature, goal, and possible risks of the research, researchers must obtain their free and informed consent. Maintaining participant confidentiality requires researchers to handle participant data securely to avoid unwanted access or exposure. Research must be planned to reduce potential hazards and keep participants from suffering from physical or psychological injuries. Researchers must present their findings truthfully, avoid plagiarism, and disclose any conflicts of interest. Integrity and confidence in scholarly work are crucially dependent on research ethics in higher education. Informed consent, confidentiality, and preventing harm are just a few of the values and rules that are included in this sector to make sure that research is done ethically and with consideration for the subjects. The protection of human subjects as well as the validity and credibility of academic findings depend heavily on ethical research techniques. Ethics education and training are essential parts of research programs in higher education institutions, helping to create an ethically conscious culture among professors and students. The fundamentals of research ethics and the function of institutional review boards in monitoring adherence. In this specific context, we must consider the ethical aspect of education. Of great importance, there is a global movement in the present day to promote high-quality education. A dynamic idea is quality education. The quality of instruction and learning in such a domain is evaluated, while concurrent concerns about ethical issues are currently being addressed to improve the high standard of instruction with the right emphasis on morals and principles

Keywords: *Higher Education, Research ethics, Findings truthfully, Plagiarism, Conflicts of interest, Academic findings, Instruction and Learning, Ethical issues*

I. INTRODUCTION

Research ethics are essential in higher education because they guarantee that academic work is done in an ethical, responsible, and respectful manner toward all participants. Universities and other academic institutions play a major role in the creation of new information; hence it is imperative that they conduct their research in accordance with ethical standards. In order to safeguard participant rights and welfare and guarantee that research is carried out in a fair and ethical manner, research ethics encompass a set of guidelines and standards that dictate how studies

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should be carried out. Institutional Review Boards (IRBs) and ethics committees are essential to this procedure. They examine research ideas to make sure they adhere to moral principles, safeguard the rights of participants, weigh the advantages and disadvantages, and guarantee that informed consent is acquired Researchers contribute to preserving the legitimacy of academic work and guaranteeing that research serves society by abiding by certain ethical principles. In the field of education, a top-notch education is becoming more and more respected globally. The idea of quality education changes throughout time and is impacted by social, economic, and environmental variables. The aims of education are outlined in Article 26 of the 1948 Universal Declaration of Human Rights, among other significant publications. These goals have an impact on educational content, teaching strategies, resources, learning settings, and results. There is a rising awareness of the significance of incorporating ethical issues to improve educational quality and stress ethics and values, even if traditional measurements of education quality concentrate on teaching and learning[2].

II. OBJECTIVE OF THE STUDY

1. To understand the research ethics in higher education.

2. Encourage understanding of and instruction on research ethics.

III. IMPORTANCE OF THE STUDY

By prohibiting misconduct including plagiarism, data fabrication, and result deception, research ethics contribute to the integrity of academic work. In order to guarantee that the public and academic community can rely on the results and conclusions of research investigations, this integrity is essential. The rights and wellbeing of research participants must be protected, and this requires following ethical rules. Assuring informed consent, upholding confidentiality, and reducing harm are all part of this. By adhering to these guidelines, researchers respect the people and communities that they are studying. Research ethics is a subject that teaches academics and students about acceptable research practices. Comprehending the significance of openness responsibility, and the moral handling of information and assets falls under this category. Through the promotion of rigorous and honest techniques, ethical research practices enhance the overall quality of research output. Results become more valid and dependable as a result, adding to knowledge advancement and social advancement. Including research ethics in higher education contributes to the development of an ethically conscious and responsible culture. This transformation in culture pushes researchers to see ethical issues as essential to their work rather than as extra requirements, and to give them top priority. This proactive approach to ethics contributes to the integration of moral principles into academic research and instruction.

IV. REVIEW OF LITERATURE

1. (Mann, 2012). Higher education institutions, who are in charge of educating the next generation, must implement and support a value system that stresses the significance of ethical practices in both teaching and learning in order to avoid such circumstances.

2. (Curko et al. (2015) All elements of education that tackle the moral dimensions of life, whether they are connected or not, are included in the idea of Ethics and Value Education (EVE). With the right instructional strategies and resources, these elements can be

[2]*David JD (2015) what is Ethics in Research & Why is it Important? Retrieved from https://www.niehs.nih.gov/research/resources/bioethics/whatis/ index.cfm on December 2018.*

organized, controlled, and observed. The main goals of EVE are to: cultivate in students a sense of ethical reflection, awareness, responsibility, and compassion; impart knowledge of important ethical principles and values; develop academic skills like critical thinking, evaluation, reflection, and decision-making, as well as non-cognitive skills like compassion, for making morally responsible decisions; establish an ethical community in the classroom or school setting; and establish individuals with a dedication to advancing the common good in their local and global communities. With the aid of this strategy, children can overcome bias, discrimination.

3. David (2015) the study of moral norms in a variety of academic fields, such as sociology, psychology, religion, law, and philosophy, is known as ethics. Furthermore, ethics can be viewed as a process, approach, or viewpoint that is utilized to decide how to behave and to examine difficult situations.

V. RESEARCH METHODOLOGY

Research methodology is the methodical, theoretical examination of a technique used in a field research or the theoretical examination of a body of techniques and principles related to a field of study. The research is based on secondary and the process of collecting data that has previously been gathered and published by others. This entails obtaining data from already-existing sources. Academic publications, books, government reports, statistical databases, market research reports, and earlier research studies are examples of common sources. A fundamental component of a systematic and efficient research process is research methodology, which guarantees the validity, reliability, and ethical acquisition of research findings.

VI. STATEMENT OF THE PROBLEM

A wide range of intricate problems and obstacles that can jeopardize academic work integrity and have an impact on participant welfare are encountered in higher education research ethics. In order to preserve public confidence in research and make sure that scholarly processes adhere to the highest ethical standards, these issues must be resolved. Autonomy of Participant and Informed Consent Problem, obtaining true informed consent is still very difficult. Participants need to be well aware of their rights, the nature of the research, and any possible dangers. In actuality, though, there can be insufficient justifications, extremely complicated consent forms, or coercive pressures—especially with regard to vulnerable groups. When participants are not fully aware of what they are committing to, this can result in ethical violations and even injury or exploitation. Privacy and Data Management, as digital data collecting and storage have grown in popularity, managing sensitive data and privacy issues has become more challenging. Unauthorized access, data exploitation, and insufficient protection of personal information are among the problems. Participants' trust may be damaged by data privacy violations, which may also result in harm if private information is exploited or revealed.

VII. DISCUSSION & DATA ANALYSIS

Academic Research Ethics

The importance of including spiritual instruction in school curricula was stressed by the Radhakrishnan Commission (1948–49). Religious and moral training have an impact on pupils' behavior and character, according to the Mudaliar Commission (1952–53). A crucial aspect of education, according to the

Ramamurthy Committee (1990), is its capacity to foster virtues like love, compassion, and social justice founded on the truth and non-violence, all the while fusing spirituality and scientific knowledge. Teachers have many opportunities to favorably affect students because they spend a significant amount of their formative years with teachers, who play a critical role in shaping students' lives. Teachers can help students learn right from wrong and make wise judgments for both themselves and other people by observing their lifestyles and behaviors.

Teachers help create peaceful societies by providing this direction. But this influence can only be made if educators are completely conscious of their role in forming the moral and ethical standards of their pupils. When talking about morality or ethics, we frequently make a distinction between what is acceptable and undesirable behavior. The rules of ethics are what keep our morals intact. Ethics' as the study of disciplines such as psychology, sociology, law, religion, and philosophy that look at standards of conduct. A strategy, process, or framework for choosing how to behave and for deciphering intricate difficulties and situations can also be referred to as ethics. People pick up ethical principles from a variety of sources, including different social contexts, peers, professional networks, family, and friends. Even though many people establish their sense of right and wrong throughout their formative years, moral formation is a lifelong process that changes as people age. Despite the existence of commonly accepted ethical standards, individual interpretations, applications, and balancing of these norms vary according to personal experiences and ideals[3].

THE SIGNIFICANCE OF RESEARCH ETHICS

In order to maintain the validity and integrity of scientific research, research ethics are essential. They offer a framework that enables researchers to carry out their work in an ethical manner, protecting participant welfare and upholding public confidence in study findings. In order to advance knowledge while preserving the rights and dignity of all parties involved, researchers must follow the values of honesty, transparency, and respect. They do this by abiding by ethical standards.

1. Research Integrity: According to ethical standards, research results are more reliable and credible. Researchers can guarantee the integrity, accuracy, and lack of manipulation or fabrication of their work by following established rules. When research is conducted, reported, and disseminated, it must follow to ethical guidelines and professional standards. This is known as research integrity. It is essential to preserving public confidence in research as well as the validity and dependability of scientific discoveries.

2. Protection of Human Subjects: One of the most important components of ethical research involving humans is the safeguarding of human subjects. Participants in study are guaranteed to be treated with dignity and consideration, and their rights and welfare are protected thanks to this protection..

Human subjects are involved in a lot of research projects. To safeguard their rights and welfare, ethical behavior is essential since it guarantees informed consent, confidentiality, and the least amount of harm possible.

3. Responsibilities to Society: Researchers have an obligation to take into account how their study may

[3]*Education and National Development. Report of the Education Commission 1964–66 (Kothari Commission). Ministry of Education, Government of India. Enago Academy (2018) .importance of research ethics. Retrieved from https://www.enago.com/academy/importance–of–research–ethics/ on December, 2018.*

affect society as a whole. In addition to preventing abuse or incorrect interpretation of results, ethical research techniques support the responsible distribution of knowledge[4].

PRINCIPLES OF RESEARCH ETHICS

To make sure that research is carried out honorably, responsibly, and with integrity, research ethics are crucial. The following are the guiding principles.

1. Respect for Persons: This principle includes recognizing each person's right to autonomy and defending those whose autonomy is limited. It entails getting informed consent from volunteers who are completely aware of the purpose, dangers, and advantages of the study.

2. Beneficence: Researchers ought to make an effort to minimize participant harm and enhance potential benefits. The duty to favorably impact people's and society's well-being is emphasized by this idea.

3. Accountability: Scholars ought to take responsibility for the outcomes of their work. This entails being transparent and making sure that all research endeavors adhere to ethical guidelines and legal requirements.

4. Integrity: Honest and open conduct is expected of researchers this includes reporting results accurately and abstaining from plagiarism, fraud, and falsification.

5. Honesty: Researchers must be open and honest about their methodology and sources, report their conclusions honestly, and refrain from fabricating or falsifying data.

6. Accuracy: Accuracy: Making sure that research is conducted and reported with precision in data analysis and appropriate use of statistical tools.

Academic Integrity: Instructors have a responsibility to uphold academic integrity by abstaining from plagiarism and neither making sure that neither their own nor their students' work contains any dishonesty.

Transparency: When it comes to grading, assessment standards, and any conflicts of interest, educators should be open and honest.

Teachers' Ethics Concerns in the Academic Structure: Instructors bear responsibility for the personal and academic advancement of their pupils. While acquiring knowledge and imparting it to pupils is a teacher's primary responsibility, they also have an obligation to establish a welcoming and helpful learning environment in order to assist the growth of their students. Managing the diversity among the students, who come from a variety of backgrounds, is one of the teacher's major concerns. As a result, it is crucial that educators comprehend the requirements for human development. According to Sandoval and Rodríguez-Sedano (2010), a teacher might advance their career by adhering to ethical ideals in their particular teaching practices. Instructors are greatly respected because they represent the best moral models. As such, the actions of a teacher serve as a trigger for social change. A teacher should always act consistently both in their personal life and in the classroom. They have to make sure that children have lots of chances for their overall growth. The main duty of a teacher is to actively support their students' growth as individuals. For the greater good, it is imperative to put society's needs ahead of one's own.

CASE STUDIES AND EXAMPLES

Research ethics case studies and examples serve to clarify how ethical principles are implemented in

[4]*Sherpa Karma (2019) Importance of professional ethics for teachers. International Education and Research Journal [S.l.], v. 4, no. 3, Mar. 2018. ISSN 2454–9916. Available at: . Date accessed: 09 Jan. 2019.*

practical settings. These are a few condensed examples:

Understanding Consent: A Case Study: A university researcher is interested in finding out how a novel teaching strategy affects her students. They have to explain the study's purpose, potential dangers, and rewards to the students before they begin. Pupils must consent to engage voluntarily and are free to leave at any moment without incurring any fees. Relevance: This guarantees that participants are aware of what they're getting into and that their autonomy is respected by giving them the option to decline participation.

Data Security: A Case Study: A researcher is looking into college students' mental health problems. While gathering private and sensitive data, they are required to maintain participant anonymity and maintain data confidentiality in order to preserve participants' identities.

VIII. CONCLUSION & SUGGESTIONS

In summary, the implementation of research ethics is imperative in higher education to guarantee that scholarly output is truthful, open, and considerate of all parties involved. Researchers safeguard participants' rights and preserve the integrity of their work by adhering to ethical standards such as getting informed consent, keeping information private, and accurately reporting results. By doing this, institutions' reputations are improved and faith in scholarly research is increased. Monitoring and upholding these norms is the responsibility of institutional review boards (IRBs) and ethics committees. Research ethics should be prioritized to guarantee that studies uphold the highest standards of honesty and make a constructive contribution to society. To meet new ethical problems and uphold integrity in their work, researchers need to be on the lookout and always learning. Research ethics play a crucial role in maintaining the integrity and credibility of scholarly work in higher education. By adhering to ethical standards, researchers ensure that their studies are conducted with respect for human subjects, contributing positively to society, and maintaining the highest level of integrity. Embracing these ethical norms allows researchers to build public trust, avoid misconduct, and make meaningful contributions to both academia and society. Research ethics are essential to guaranteeing the ethical conduct of research in higher education. Researchers further knowledge while upholding the rights and welfare of participants and preserving public confidence in academic research by abiding by institutional and ethical requirements. Maintaining the highest levels of honesty and addressing new ethical issues in the field of research requires constant learning and observation.

SUGGESTIONS

Research ethics in higher education is an important and wide-ranging field that requires numerous guidelines to guarantee that research is carried out in an ethical, open, and courteous manner for all participants. People should be thoroughly informed about the study's objectives, purpose, and risks before consenting to participate. Never make up or change results, data, or references. Make sure results are reported truthfully. To prevent errors and omissions thoroughly go over your own and other people's research. Maintain thorough records of every research activity, including the design of the study, the methods used to collect data, and any correspondence with publications or organizations.

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MEDICAL MALPRACTICE IN INDIA: WITH SPECIAL EMPHASIS ON REPRODUCTIVE RIGHTS OF WOMEN

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ABSTRACT

Faith and trust are the cornerstones of a doctor-patient relationship. A reasonable standard of care is the foundation of the fundamental right to health that is equally available to women as that to men as per Indian laws. However, conversely medical misconduct has grown to be a significant problem in India. It is a legal cause of action that develops when a medical practitioner harms a patient by departing from accepted professional standards. It has increased by 400% in India over the past ten years, according to a new report conducted by the National Law School of India University in Bangalore. People rush to the physicians and put their unflinching trust in them in a world where health is a priority but the question arises that has this trust began to be eroded?

Understanding that women frequently have a different, more inferior or disadvantageous status than men in societal and familial contexts is the foundation for ethical sensitivity in reproductive health. This relates to the various social and economic roles that women typically play, such as taking care of small children, elderly and disabled family members, rather than actively participating in social, economic, and political life. Men hold the majority of the authority and influence in a patriarchal society, family or institution. Women become victims in such a culture for apparent reasons. Women can only obtain certain human rights when they are able to exercise their right to procreate. A wide range of human rights, including the rights to life, liberty, and security, health, non-discrimination and equality, privacy, and freedom from torture and other cruel treatment, are contingent upon the fulfillment of reproductive rights. The term "right to reproductive choice" refers to a woman's ability to decide whether or not she wants to procreate, as well as her ability to carry or end an undesired pregnancy and selects the family planning and contraception technique that best suits her needs and above all receive adequate health care. Clinical practitioners should uphold these rights as a matter of medical professionalism, ethics and competence. To guarantee that female patients are not perceived through presumptions and stereotypes that violate or reject their reproductive rights to which they are morally entitled.

I. INTRODUCTION

Millions of lives are being lost every day due to medical mis-demeanors worldwide, which is a major problem in India. A medical professional who violates normal professional procedures and causes harm to a patient may be subject to a legal cause of action known as medical malpractice. It is legally required of doctors to give all of their patients an appropriate standard of assistance.. This duty might be either contractual or tort-based. The following are the doctor's obligations of

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care to a patient :

(i) Doctors should not take a case which they cannot treat to the best of their abilities.

(ii) Once they have taken a case, they should take the utmost care in which type of treatment should be given.

(iii) Lastly, during the said treatment, doctor should be careful and diligent in furnishing the treatment.

The Indian Parliament framed the Code of Medical Ethics in the Medical Council Act of 1956 and Amendment Acts of 1964, 1993, and 2001. The principal objective of the statute is to guarantee that doctors would serve humanity while placing financial gain at the bottom of their priority list. The Code of Medical Ethics emphasizes that *"unless there is other definitive evidence for termination of pregnancy as specified in the Medical Termination of Pregnancy Act, 1971, sex-determination tests shall not be undertaken with the intent to terminate the life of a female fetus developing in her mother's womb."* Acting in this way will be considered "professional misconduct on the part of the physician leading to disciplinary erasure in addition to rendering him accountable to criminal charges as per the provisions of this Act"; in addition, "the penalty for sex determination and female feticide is striking off the name from the register apart from criminal action," the text states. But in spite of the fact that the health landscape in our nation is undergoing a revolutionary shift, many doctors have been found engaging in unethical behavior. The same has been primarily brought to limelight as a result of the media's exposure.

Numerous atrocious customary behaviors in this patriarchal society are geared towards the female. Women in India are still not viewed as men's counterpart, despite the repeal of numerous antiquated customs and the passing of laws governing women's education, widow remarriage, and other matters. There are numerous societal and cultural obstacles that still perceive a girl child as a bad investment. A cultural preference for sons in India may be expressed as 'son preference' or 'daughter aversion' arising from patri-locality, patri-lineality and often resulting into female feoticide. The reasons that brace this ideology can be explained as:

I. **In India, there are prejudiced gender roles:** In India, gender inequality begins before birth; female foetus is more likely to be aborted. If the mother's pregnancy is not aborted, the pressure from her family to have a son might make it a stressful situation. A multitude of cultural customs further victimized women. Social limitations such as patriarchy, hierarchy, and multigenerational households shape Indian gender norms. In India, women have less power since men enjoy greater security and privilege in relation to their rights.

II. **Weak prospects for education, training and vocational pursuits:** Many issues, such as a traditional mindset, prevent females from attending school, and even if they do, they are not afforded the same opportunities as boys. Because the dowry system is still popular in Indian society, parents are hesitant to spend more money on their daughters' education and instead want to save it for her marriage. As a result, the majority of women rely on their husbands for financial support.

III. **Inequitable power dynamics between genders:** In a culture dominated by men, women in India witness physical, emotional, and sexual violence against them that negatively impacts their physical, mental, and reproductive health. Since men hold more power in the family, their health is prioritized over their female partners.

IV. An exclusive focus on women reproductive roles: In a patriarchal culture like India, giving birth remains one of the most significant duties for women, notwithstanding their other responsibilities. They are considered as machines that create babies.

Their reproductive health is not given adequate attention. They lack ownership over their bodies. They are unable to decide whether to have a baby, even if their body is not medically fit. This impacts both her physical and mental wellbeing and has become one of the main causes of maternal mortality, life-threatening complications and psychological disorders.

V. A Girl cannot continue the family lineage: After marriage, girls usually move into their marital home rather than staying with their parents due to the hierarchical structure of the community. It follows that girls are perceived as incapable of inheriting their family's traditions from birth. It is not only that the parents will disappear as a family, but in their latter years they will also be abandoned.

II. OBJECTIVES OF THE RESEARCH:

The research paper presented aims to focus on numerous reasons for practicing the evil custom of female feticide in India. The paper focuses on the following objectives:

1. Investigate the reasons behind gender-based family composition in India and violations of women's rights.
2. To examine the problem of female feticide generally, paying special attention to the laws that are in place to stop the threat as well as the relevant investigative organizations and their authority.
3. To determine where and how the rights of girls can be applied, executed, and implemented in order to represent women's status in society and produce data on female mortality and the gender-ratio.
4. To determine the role that the family plays in pregnant women having abortions, particularly if the procedure is performed after the fetus's sex has been determined.
5. To find out as to how the conduct of medical practitioners who carry out these abortions effect the health of the concerned women that directly strike at her reproductive rights guaranteed by the law.
6. Encourage society to denounce the derogatory practice of female feticide and promoting equal value for both sons and daughters.

The unethical practices of female feticide and sex-selective abortions are powerful manifestations of the male-dominant society in India, which is represented in son-preference. Particularly in old age, parents expect boys but not daughters to take care of them financially and emotionally. Sons contribute to the family's wealth and property while daughters spend it all on dowries; sons carry on the family line even after daughters are married off to another household; sons fulfill significant religious duties and protect the family's authority while daughters must be protected and defended, which is seen as a burden on the home.

An abortion refers to the process of ending a pregnancy through the removal or evacuation of a fetus or embryo from the uterus, which ultimately results in or causes its death. It is the untimely termination of the fetus and a deliberate termination of pregnancy that can be done either medically or surgically.

- Medical Abortion: When a pregnancy is less than 10 weeks old, this method of abortion involves giving the patient oral medication to remove the foetus from the uterus.
- Surgical Abortion: When a woman decides she

wants an abortion after seven weeks of pregnancy, a surgical abortion is carried out; this procedure is typically utilized when the pregnancy has gone beyond ten weeks.

Due of the many different manifestations of female feticide, a number of legislation have been introduced on a regular basis to address it. The Medical Termination of Pregnancy Act was created expressly to handle circumstances in which rape constituted a medical risk to the mother and child. It was enacted in 1971 and made abortion lawful in almost all states. Laws also identify doctors who can perform legal abortions under the previously described circumstances.

In the 1980s, the general inhabitants of India had widespread access to sex scanning devices. This led to a number of reports surfacing about the improper usage of sex screening technologies. The Prenatal Diagnostic Techniques Act (PNDT), which was passed by the government in 1994, was a reaction to this problem. In 2004, this act underwent yet another revision for a number of reasons, leading to the creation of the Pre-Conception and Prenatal Diagnostic Techniques (Regulation and Prevention of Misuse) Act. Its main goal was to outlaw and punish those who indulge in female feticide as well as prenatal sex testing.

INDIA PENAL CODE, 1860:

The nation's first comprehensive law safeguarding women's reproductive rights was incorporated in the Indian Penal Code, which was drafted in 1860 while India was still governed by the British. The definition of abortion as "causing miscarriage" on intent led to its illegality. Sections 312–318 of the law stipulate that abortions are illegal and can result in jail time, a fine, or both. It said that anyone who causes the termination of a fetus in any way, including medically assisted abortions or illicit/unsafe abortions, faces three years in prison, a fine, or both if the miscarriage was not caused in good faith, and seven years in prison. There is not a single mention of "abortion" in the statute. Throughout the code, the terms "miscarry" and "unborn child" are used, although their definitions are never made clear. However, based on legal precedents and interpretations, one can assume that a miscarriage is the same as an abortion. Anyone who performs the aforementioned offence without the lady's consent faces life in jail or a sentence of up to ten years in prison, as well as a fine, under Section 313 of the IPC, 1860.

Section 314 states that any act done with the intent to cause miscarriage those result in the woman's death is punishable by imprisonment for up to ten years and a fine. Section 315 states that anyone who acts in such a way that it stops the child from being born or causes the kid to die after birth without intending to save the woman's life will be sentenced to ten years in prison, a fine, or both. Finally, under Section 316, any person who causes the death of a quick unborn child shall be imprisoned for ten years and fined.

MEDICAL TERMINATION OF PREGNANCY ACT, 1971

The first move towards legalizing abortion occurred in India in the mid 1960s, when the government established the ***Shantilal Shah Committee***, which was led by medical expert ***Dr. Shantilal Shah***. In 1964, the Committee proposed that abortion regulations in India be liberalized in order to reduce unsafe abortions and maternal mortality in the country. The Committee thoroughly investigated numerous concerns concerning the legality of abortion. According to the estimate, with a population of 500 million, there will be

6.5 million abortions per year-2.6 million natural and 3.9 million induced. Based on the Committee's report, the Parliament adopted ***"The MTP Act, 1971".*** This law gave Indian women the authority to terminate an unwanted pregnancy through the procedure outlined in the statute. The Act's purpose is to allow licensed medical professionals to terminate particular foetuses and other related matters.

The MTP Act states:

- who can terminate a pregnancy
- after how long a pregnancy can be terminated and
- where a pregnancy can be terminated.

According to the provisions of the MTP Act, the woman whose pregnancy is being terminated must provide her agreement. However, approval of a guardian is also required in the case of a child (someone under the age of 18) or a lady suffering from a mental condition. The Medical Termination of Pregnancy (MTP) Act came into force on 1stApril, 1972 followed by the ***MTP Rules and Regulations in 1975.*** The act permitted:

- abortions up to 12 weeks post-conception required the consent of a single physician;
- abortions between 12 and 20 weeks post-conception required the consent of two physicians.

Pregnancy may be ended for a variety of reasons up to 20 weeks of gestation, as listed below:

1. When a pregnant woman's life is in danger or when carrying the pregnancy to term could seriously harm her bodily or mental well-being;
2. When there is a significant chance that the child, if born or dies, would have severe physical or mental disabilities;
3. When rape is the cause of pregnancy;
4. When a married woman or her husband fails to utilize contraception, it is assumed that this will result in pregnancy and serious harm to the woman's mental health;
5. When a couple has two or three children already and their family's socioeconomic situation is dire.

According to the MTP Act, a registered medical practitioner (RMP) who satisfies the following criteria is the only person authorized to terminate a pregnancy:

- possess a medical degree recognized by the Indian Medical Council Act;
- have their name listed in the State Medical Register;
- and have had the gynaecology and obstetrics experience and training required by the MTP Rules.

The Medical Termination of Pregnancy (MTP) Act, 1971 was amended in 2002 to facilitate better implementation and increase access for women especially in the private health sector.

Following changes were introduced under the Medical Termination of Pregnancy (Amendment) Act, 2002:

I. The termination of pregnancy shall be done only at a hospital established or maintained by Government or a place for the time being approved for the purpose of this Act by Government.

II. Whoever terminates any pregnancy in a place other than that mentioned above shall be punished with rigorous imprisonment for a term which shall not be less than two years but which may extend to seven years.

The Government of India on 16 March 2021 passed the MTP Amendment Act 2021 . In order to guarantee that everyone has access to complete care, the amendment increased the availability of safe and authorized abortion services on social and humanitarian grounds. The principal clauses of the amendment provide that:

- A married woman may end a pregnancy up to 20 weeks if a contraceptive technique or device fails.

- If a married woman's method or device of contraception fails, she may end the pregnancy up to 20 weeks.
- One Registered Medical Practitioner's (RMP) opinion regarding pregnancy termination up to 20 weeks gestation.
- The views of two Registered Medical Practitioners (RMPs) regarding the termination of a 20–24 week pregnant pregnancy.
- A state-level medical board's opinion is necessary in order to terminate a pregnancy after 24 weeks if there are significant fetal abnormalities.

The modified law specified seven categories of women who would be eligible for seeking termination of pregnancy between 20-24 weeks under section 3B of the rules prescribed under the MTP Act. These include:

a) Victims of rape, incest, or sexual assault,

b) Minors,

c) A change in marital status (divorce or widowhood) while the pregnancy continues to exist,

d) Women with physical disabilities,

e) Mentally ill woman including mental retardation,

f) The fetal formation that has a substantial risk of being incompatible with life or if the child is born it may suffer from such physical deformities to be seriously handicapped.

g) Women with pregnancy in humanitarian settings or disasters emergencies as may be declared by the Government.

REVIEW OF THE MEDICAL TERMINATION OF PREGNANCY ACT, 1971:

An Indian survey found that there were 70 unwanted births for every 1000 women in the country between the ages of 15 and 49. This indicates that more than half of India's 48.1 million unplanned births in 2015 occurred. Every year, these unwanted pregnancies result in around 47,000 maternal deaths and 25 million unsafe abortions. Even though abortion was made legal 50 years ago, 10 women still lose their lives to unsafe abortions each year, making them the nation's third-leading cause of maternal fatalities. Some of the loopholes in the Act are:

1. The 8,00,000 unsafe abortions that take place in India each year are a major factor in the 1971 amendments to the Medical Termination of Pregnancy Act that made it more lenient. It is argued that because abortion is so difficult to obtain, women are compelled to use dangerous, illegal techniques of abortion, with 10% of these procedures in India ending in maternal death. In most of the cases, these abortions are done after getting acquainted with the sex of the fetus. The conditions have been liberalized mostly because of these findings.

2. The Medical Termination of Pregnancy Act is not necessarily sufficient legislation when it comes to deal with female feticide. The continued practice of selective abortion is predicted to result in 6.8 million fewer female births being registered in India by 2030. Even with laws like the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act (1994), acts of female feticide continue.

PRENATAL DIAGONOSTIC TECHNIQUES (REGULATION AND PREVENTION OF MISUSE) ACT, 1994

The preference for male over female children has historically stemmed from cultural customs and the patri-lineal line of succession concerning property rights. Because of this, families had a propensity to keep having children until a male child was born, which exacerbated India's over-population problem. This was

the standard up until the 1990s, when the development of ultrasound tools, pre-natal sex determination became a walk in the park. This resulted in the growth of Rs.10 billion business where doctors performed sex-selective abortions for financial gains. The nation's sex-ratio was as a result skewed towards male. Further, to stop the MTP Act from being abused for sex selection abortions, a new law was therefore thought to be necessary. Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994 (PNDT Act) was passed by the Indian government in response to the latter circumstance. On 1st January, 1996 it went into effect. The Act was amended in 2003 to The Pre-Conception and Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Amendment Act to improve the regulation of the technology used in sex selection.

Enumerated below are the primary goals for which the Act was enacted:

1. Outlawing decisions about sex that result in infanticide or female feticide: As diagnostic tools have advanced technologically, parents can now determine the sex of the fetus. Additionally, ultrasound machines have become a crucial diagnostic tool in a society where sex-selective abortions are encouraged due to the ideology of son preference. Due to the aforementioned causes, female fetal deaths are occurring at a startling pace, which has drastically reduced the female to male ratio. Therefore, sex determination at any stage, with the exception of specific genetic defects, has to be outlawed in order to prevent horrors like female foeticide and infanticide.

2. Enforcing regulations on prenatal diagnostic methods: Every area of technology advancement has both positive and negative effects; hence laws governing their application are necessary to avoid abuse. Thus, the Act sought to regulate prenatal diagnostic techniques, with a focus on Chapter III of the Act, which limits the use of these techniques to registered centers and laboratories only after they have satisfied the requirements and under the specified circumstances and abnormalities. Furthermore, it is forbidden to reveal the sex of the fetus to parents or other family members, even when performing diagnostic procedures under the Act's specified circumstances.

3. Establishment of a Supervisory Committee to ensure oversight: Along with regulating prenatal diagnostic procedures, the Act also strives to organize a Regulatory Body that will supervise the operations of registered Genetic Counseling Centers, Laboratories, and Clinics. In accordance with Chapter IV of the Act, a Central, State, and Union Territory Supervisory Board shall be established in order to carry out the functions and authority assigned to the Board by this Act. The Appropriate Authorities are designated by the Central Government for each of the Union Territories and by the State Government for the whole or a portion of the State, according to Chapter V of the Act. These Appropriate Authorities are responsible for carrying out such functions:

a) according to the guidelines established for genetic counseling centers, labs and clinics,

b) approving, halting or terminating their registration,

c) peering into grievances of public and contraventions so caused,

d) pursuing litigation against the ones employing of sex selection techniques,

e) monitoring the implementation of the Act's

provisions,

f) and serving upon the recommendations of the Advisory Committee as established under this Act.

4. Punishing the offenders: Policies and regulations are not based on utopian principles, rather the necessities of society are taken into consideration by the policymakers when they are drafted. Therefore, this Act enshrines deterrent penal provisions to penalize the offenders who violate the Act's provisions in addition to provisions for the prevention or prohibition of evils like infanticide, unlawful abortions, female feticides, etc. All labs and clinics are barred by the Act from using ultra-sonography for identifying the sex of the fetus. In addition, it criminalizes the sale, distribution, supply, rental, etc. of any ultrasound machine or other piece of equipment that can determine the sex of the fetus, as well as anyone involved in or assisting with the prenatal diagnostic technique and PND test for any reason other than that specified in the Act.

The pre-conception sex selection methods and the ultrasound technique were added to the Act's purview in 2003 when it was revised. According to the Act:

a) doctors and clinic owners who violate any of the provisions face the following penalties and punishments-

- For a first offense, there is a maximum sentence of three years in prison and a fine of Rs 10,000.
- A repeat offender may be fined up to Rs 50,000 and sentenced to up to five years in prison.
- The Medical Council may suspend a registered practitioner's registration pending the resolution of any allegations brought against them.
- In the event of a second offense, the practitioner's name may be permanently removed from the medical register for five years.

b) for a spouse, family member, or other individual who encourages sex selection:

- for the first offense, the possible punishment is up to Rs 50,000 in fines and three years in jail
- The maximum penalty for a repeat offender is five years in prison and a fine of one lakh rupees.

c) in relation to any sex-related advertisement:

- maximum three-year jail sentence and a fine of up-to Rs.10,000.

REVIEW OF PCPNDT ACT:

The Act was passed and revised with the intention of outlawing the predetermination of a foetus's sex and regulating prenatal diagnostic procedures; however, some provisions remain unfilled and serve the interests of those who break the law. Here are a few examples of these Act's shortcomings:

1. The Act is silent regarding the 2002 introduction of "imaging centers" and "ultrasound clinics" and their registration and declaration. Additionally, they are exempt from the Act's record-keeping requirements, which is a huge benefit for those who are willing to break the law.
2. The Act makes no mention of the qualifications or certificates that medical practitioners in registered units must possess or who is responsible for providing them.
3. The Act does not apply when there is a contradiction between the Appropriate Authority's decision and the Advisory Committee's suggestion.
4. Since there is no provision for medical practitioners' licenses to be permanently canceled, even in the worst-case scenario, the criminal provisions under the Act do not have the intended deterrent impact.

5. There are unclear guidelines in the Act regarding the accountability and duties of the District and State Appropriate Authority.

6. Portable and transportable prenatal diagnostic tools and equipment are not need to be registered. This instrument, which is mainly uncontrolled, aids in the threat's dissemination.

7. Although the Act prohibits doctors from disclosing to parents the sex of a fetus in any way, there is currently no reliable method for enforcing this rule or detecting infractions.

8. A significant shortcoming of the Act is that authorities are not subject to penalties for improper actions taken to guarantee the Act's implementation.

CASE LAWS:

In an effort to guarantee the Act's precise implementation, the public and organizations have filed several cases with the courts, and the Hon'ble Courts have rendered verdicts that have significantly influenced India's PNDT and MTP laws. The following are a few significant cases and rulings:

I. Centre For Enquiry into Health & Allied Themes (CEHAT) and Others v. Union of India And Others:

In order to seek the execution of the PNDT Act, the Centre for Enquiry into Health and Allied Themes (CEHAT), an NGO, Mahila Sarvangin Utkarsh Mandal (MASUM) and Dr. Sabu M. George, a member of civil society, filed a writ under Article 32 of the Indian Constitution.

The SC gave the Central Government and Centre Supervisory Board instructions to use suitable media releases and activities to educate the public against the practices of prenatal gender selection and female foeticide. In accordance with the law, advisory committees were established, and their directive was to guarantee that the laws were implemented correctly. The authority to oversee the implementation of all states and UTs was granted to Central Supervisory Board and the affected states were expected to provide reports containing all the necessary data. The Board was granted the authority to determine whether this law needs to be amended and to suggest such changes to the Central Government. Guidelines for raising public knowledge of the laws and the penalties for breaking them were provided to the relevant authorities and State Governments.

II. Mr. Vijay Sharma and others v. Union of India (UOI):

The PCPNDT Act's constitutionality was contested in this case by writ under article 226 on the grounds that it infringes upon Article 14 of the Constitution's guarantee of equality .In addition to wanting a male child; the petitioners already had two female children. It was argued that prenatal diagnostic procedures should be allowed for couples who previously had children of one sex in order to conceive a kid of the other sex. One argument made was that since the Medical Termination of Pregnancy Act, 1971 permits abortion under specific conditions, then why is a woman who conceives a girl for the second or third time not taken into consideration under the PCPNDT Act. There was a claim of discrimination against two women in comparable positions, which means the Act is in violation of Article 14.

The petition asking the states to stop the improper use of diagnostic procedures was overturned by the Bombay High Court, which disputed every defense put forth. The Medical Termination of Pregnancy Act and the Pre-conception and Pre-natal Diagnostic Techniques Act, are entirely different, the court ruled,

rejecting the arguments pertaining to their constitutional legality. Since there cannot be a comparison between two females—one who wishes not to have children and the other who want not to have children of a specific sex—article 14 was not broken.

III. Dr. Pradeep Ohri v. State of Punjab and Anr.:

Within the Ohri Nursing Home, the petitioner operated the Satyam Diagnostic Center. During the District Medical Authorities' inspection of the aforementioned ultra-sonography centre, it was found that the petitioner had violated Section 5(a)(b)© of the PNDT Act, 1994 as well as Rules 9(1)(4) and 10 of the Preconception and Prenatal Diagnostic Techniques (Prohibition of Sex Selection) Rules, 1996. After a complaint under the aforementioned provisions, he was charged under Section 23(1) for the offence committed under Sections 5(a), (b), and (c) of the PNDT Act, 1994 as well as Rules 9(1)(4) and 10. The Medical Council removed the petitioner's name from the State Medical Register due to this conviction. The Punjab and Haryana High Court received a petition contesting the conviction and expunging his name.

It was argued that, in accordance with Section 23 of the former PNDT Act 1994, his name was blacklisted for five years for an offense that was committed on July 9, 2002. His name was only allowed to be deleted for two years. The submission further stated that the two-year period for the first offense was only extended to five years following the PNDT Act amendment, which took effect on February 14, 2003. After considering the petitioner's plea, the Punjab and Haryana High Court shortened the original 5-year timeframe to two years.

IV. Vinod Soni and Anr. v. Union of India (UOI):

Based on the argument that the PCPNDT Act violates Article 21 of the Indian Constitution, a criminal writ petition was filed in the High Court of Bombay. A married couple filed the petition, arguing that Article 21 of the Constitution guarantees the right to life as a basic right. It also involves the freedom to choose the child's gender and determine the makeup of the family.

The High Court declined the request for relief. It was decided that there was no apparent infringement of Article 21. According to the court, Article 21 guarantees the rights to life, food, the environment, culture etc. but it does not include the ability to choose a child before or after conception. The Court held that regardless of the infant's gender or sex, every conceived child has the right to full development under Article 21. A right of this kind cannot be imagined as part of the right to life under Article 21.

III. CONCLUSION:

The most precious and inviolable of all fundamental rights in India is the right to life, even though it is primarily patriarchal and contributes to women's subordinate status. The presented paper can be summed up under the following points:

1. These behaviors result in a rise in violence against women and the denial of their fundamental rights.
2. The courts have recognized sex-selective abortions as a form of physical abuse that has long-term psychological repercussions.
3. The number of marriage-related crimes such as infidelity, bigamy, and marital rape rises as a result of these abortions.
4. Women's reproductive health is seriously compromised through multiple pregnancies and successive abortions.
5. Because women are typically held responsible for their incapacity to bear males, this has a detrimental effect on their mental health.

6. Having access to higher education is essential for women's empowerment and status advancement. Adoption of this strategy is especially necessary for vulnerable women in rural areas.

7. The issue stems from societal behavior, and in order to alter the current state of affairs, coordinated actions involving various facets of society are required.

8. To eradicate gender bias and promote an optimistic perception for girls in society, print and digital media must be utilized. The greatest places to employ the outreach are tribal, rural, and underdeveloped areas.

9. A coordinated police and law enforcement agency effort may be the most effective way to stop the threat. It is possible to investigate and punish the negligent medical professionals appropriately.

10. Identifying the loopholes and lacunas that hinder the proper implementation of the Medical Termination of Pregnancy Act and Regulations along with Pre-conception and Pre-natal Diagnostic Techniques Act. The Acts that are actually framed for bringing constructive changes generally end up generating into pernicious results.

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CROSS-BORDER COLLABORATION IN ACADEMIA: EXPLORING THE ROLE OF MUTUAL LEGAL ASSISTANCE IN HIGHER EDUCATION RESEARCH

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ABSTRACT

In the current globalized academic environment, cross-border collaboration has become pivotal for promoting knowledge and nurturing innovation in higher education field. However, the intricacies of international research partnerships often involve navigating diverse legal landscapes, which can impact the efficiency and productiveness of such collaborations. This paper explores the role of Mutual Legal Assistance (MLA) in facilitating cross-border academic education and research. MLA treaties and agreements, which traditionally focus on criminal matters, are now being used by nations to address the legal challenges that arise in international scholarly collaborations.

The study addresses several relevant concerns and looks at how MLA frameworks might be used to improve academic cooperation. The paper attempts to highlights best practices and identifies common obstacles faced by researchers when engaging in cross-border projects. Major factors include the protection of research integrity, cultural differences, ensuring academic and research quality and addressing funds issue. The paper attempts to showcase that while MLA mechanisms offer significant potential to bolster international research endeavors, there are still gaps in implementation and areas for improvement. In the last section, the paper would provide some recommendations to enhance the effectiveness of MLA in facilitating higher education research, including the need for efficient guidelines, proper communication channels, and greater harmonization of legal standards.

Keywords: *Cross Border Collaboration, Mutual Legal Assistance, MLA Mechanisms, Higher Education*

I. INTRODUCTION

Education is one of the important issue in one's life. It is considered as the key to success in the future and to bring many opportunities in the life. Education helps students to plan for work and pursue higher education. According to the UNESCO, "Higher education is a rich cultural and scientific asset which enables personal development and promotes economic, technological and social change[2]." Higher education helps in promoting the exchange of knowledge, research and innovations and equips students with the skills needed to meet ever changing labour markets. Higher education is a ticket for the students in vulnerable circumstances to economic security and stable future.

The last several decades have seen significant changes in higher education due to factors like growing enrollment, student mobility, varied offerings, evolving research dynamics, and technological advancements. According to the UNESCO data, some 254 million students are enrolled in universities around

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[2]*"What you need to know about higher education", unesco, https://www.unesco.org/en/higher-education/need-know*

the world – a number that has more than doubled in the last 20 years and is set to expand[3]. More than 6.4 million students are pursuing their higher education from abroad. Higher education is the key factor for the underdeveloped and developing countries as their citizens travel abroad to study further which ultimately bring social and economical benefits to the sending state. This is the reason why many such countries are now taking keen interest in having Mutual Legal Assistance (MLA) in the field of higher studies with the countries having top class colleges and universities. The MLA creates an unambiguous and binding obligations on the party countries, making the agreement more reliable and unambiguous[4].

Mutual Legal Assistance in higher education facilitates cross border research and academia among nations. The MLA addresses the legal challenges that arise in international scholarly collaborations.

II. MUTUAL LEGAL ASSISTANCE IN HIGHER EDUCATION

Mutual Legal Assistance (MLA) in higher education typically refers to the cooperation between institutions, or between countries, in legal matters related to educational activities. These agreements allow for the exchange of research and information and mobility of research scholar engaged in higher education between the signing countries. These types of treaties enhance effectiveness of both countries in research and innovation field, through cooperation and mutual legal assistance in higher education sectors. These treaties provide a broad legal framework for bilateral cooperation with the signing countries in academics and research field as well as in providing proper institutional channels for the students to study in that particular countries. It also help students to not fall prey to black market operators.

This Cooperation between countries and educational institutions through Mutual Legal Assistance in higher studies can cover a variety of areas, such as

- Academic integrity and fraud: Institutions may work together to investigate cases of academic dishonesty, including worldwide diploma mill operations and cheating[5].
- Students and Faculty Disputes: Legal conflicts among students or faculty members that may include cross-border legal difficulties can be resolved with the assistance of MLA.
- Data Protection and Privacy: Institutions may need to collaborate in order to guarantee compliance with national rules, such as the GDPR in Europe, or other laws when handling student or research data, given the growing concerns about data privacy[6].
- Criminal Investigations: MLA can help law enforcement and educational organizations cooperate and share information when there is a criminal activity that crosses academic institutions, including fraud or abuse.
- Research Collaboration: When institutions from different nations collaborate on research initiatives, agreements and support related to intellectual property

[3] *Id.*
[4] *Sagar F., Sundaram S, Sharma P., (29th October, 2020), Understanding Cross Border Legal Assistance, cyril amarchand mangaldas, https://corporate.cyrilamarchandblogs.com/2020/10/understanding-cross-border-legal-assistance/*
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rights, financial arrangements, and legal compliance may be required.

III. MUTUAL LEGAL ASSISTANCE: A WAY TO IMPROVE ACADEMIC COOPERATION

By offering a framework for administrative and legal support in a variety of areas related to international academic partnerships, Mutual Legal Assistance (MLA) can significantly contribute to the improvement of academic cooperation. MLA agreements can simplify transfer data while guaranteeing adherence to global data protection regulations. They can also offer channels for settling conflicts pertaining to funding, research results, and intellectual property rights. Institutions are able to concentrate on their research rather than juggling intricate legal matters because to this legal clarity. In international academic cooperation, Mutual Legal Assistance (MLA) frameworks play a crucial role in mediating disagreements through organized processes like arbitration and mediation. These frameworks include a wide range of topics, such as addressing problems about intellectual property (IP) or research findings, handling violations, and enforcing agreements.

MLA frameworks can provide mechanisms for enforcing contractual agreements related to academic collaborations, including research partnerships, joint degrees, and faculty exchanges. MLA frameworks can help enforce the provisions of a contract through arbitration or mediation if a party breaches it, making sure that responsibilities are fulfilled, and remedies are offered. For example, in a Joint Research Agreements, if institutions have a dispute over the terms or the content of a research agreement, MLA can help enforce compliance with the agreed-upon terms or resolve disputes regarding the distribution of research results or intellectual property.

Apart from above, the MLA can also helps in protecting the Intellectual Property Rights. MLA can help organizations and legal authorities to work together for the safeguarding and upholding of the intellectual property rights internationally. This entails handling problems in several jurisdictions, such as copyright infringement or patent infringement, protecting intellectual property, and effectively resolving disagreements. Parties to intellectual property issues are frequently located in multiple nations, each with its own legal framework. MLA frameworks facilitate cross-border cooperation between legal agencies, hence aiding in the resolution of jurisdictional issues. Making legal requests for help, such as gathering proof or carrying out investigations abroad, can be expedited with MLA. In IP situations where infringement may involve numerous jurisdictions, this is critical.

By addressing a variety of legal and administrative issues, Mutual Legal Assistance (MLA) agreements greatly increase the efficacy and efficiency of faculty and student mobility programs. In the end, these agreements lower administrative barriers and promote increased academic interaction by streamlining procedures linked to immigration laws, academic recognition, and adherence to standards of education. MLA agreements can facilitate the standardization of visa issuance and application processes across member nations, hence easing the process for teachers and students to get the appropriate visas for mobility programs. MLA frameworks can help participating nations reach agreements on the equivalency of academic qualifications. This guarantees that credentials and degrees obtained in one nation are respected and acknowledged in another. For

Verification Procedures, MLA can shorten the time and effort needed for recognition by streamlining procedures for confirming academic qualifications, such as through shared databases or verification systems.

ERASMUS Programme: (EuRopean Community Action Scheme for the Mobility of University Students). It is the European Union's flagship 'mobility' programme in education and training and considered as one of the best known EU-level actions. Under this programme, more than 230000 students study abroad. Additionally, it provides funding for cooperative initiatives between higher education institutions around Europe, staff teaching and training opportunities, and the chance for student placements in businesses[7].

It has been found through studies that demonstrate that studying overseas benefits students' lives both academically and professionally. It can also help them develop their language abilities, intercultural competency, independence, and self-awareness.

In 2003, The International Association of Universities surveyed its member institutions and they identified the top three motivations for internationalization as mobility and exchanges for student and faculty development; improvement of academic standards and quality assurance; and international research collaboration[8].

IV. OBSTACLES IN THE WAY OF CROSS BORDER HIGHER STUDIES

A variety of difficulties face higher education researchers, particularly those working in cross-border education. Because of the interaction of many educational systems, cultural backgrounds, and administrative practices, these challenges can be quite complex. Students from under developed and developing countries go to developed countries for studies and to work and never come back. They pay exorbitant fees and only the children of the rich study abroad. Globalisation has created inequalities and inequities[9].

Researcher may face language barriers which may make it harder to comprehend or articulate complex ideas. Idiomatic idioms, subtleties, and academic language might not always translate accurately, which can result in misunderstandings. Every field has its own specialized terminology. Researchers from different countries may use varying terms or phrases to describe the same concepts. For instance, terms like "fuzzy logic" in computer science might be understood differently based on regional academic traditions. In higher education, securing fund for cross-border study from a variety of sources requires negotiating a challenging environment where funding objectives, practices, and specifications differ greatly between nations[10].

This intricacy may present several difficulties for academics and organizations engaged in cross-border partnerships. Many countries have distinct national priorities and strategic interests that influence funding decisions. For example, some countries may prioritize research in technology and innovation, while others

[7] *Roy, S. (25 January 2024), Global Scholarships: Erasmus+, Indiatoday, https://bestcolleges.indiatoday.in/news-detail/global-scholarships-erasmus.*
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may focus on health and social sciences[11]. Aligning a cross-border research project with these varied priorities can be challenging. Within countries also, individual institutions may have their own research agendas and funding priorities, which may or may not align with national funding bodies or international partners.

Apart from this, in cross-border higher education, academic and research quality issues can pose significant challenges due to differences in educational systems, institutional standards, and cultural practices. These issues can impact the effectiveness and credibility of academic programs and research initiatives[12]. The content of curricula, instructional strategies, and evaluation procedures may vary among nations. This may result in variations in the level of rigor and quality of instruction given. Furthermore, accreditation procedures and standards might vary greatly, which has an impact on how internationally respected and acknowledged programs are. Institutions may encounter difficulties making sure their curricula adhere to international accrediting requirements.

Quality assurance (QA) processes and standards vary between countries and institutions. Ensuring consistency and comparability in QA practices across borders can be difficult task to manage. Apart from quality, standards and research methods also vary between state and institutions. This may influence the validity and consistency of research findings as well as the capacity to compare study outcomes. Disparities in publication methods, including a preference for journals or impact factors, can have an impact on how widely known and visible the research is.

V. IMPLEMENTATION PROBLEMS

Implementing mutual legal assistance (MLA) in cross-border higher education presents various challenges, but addressing these can significantly enhance collaboration and ensure compliance with legal frameworks. The complexity arises from differences in national laws, administrative procedures, and cultural contexts. Some of the implementation challenges have been discussed below:

Legal Frameworks and Jurisdictional Issues- Different countries have distinct legal systems and regulations governing higher education and research. Aligning these diverse systems to facilitate MLA can be complex. It can be difficult to decide which jurisdiction's laws to apply in cross-border conflicts or legal situations, especially when several nations are involved. Laws of a certain jurisdiction might create problems while applying to a dispute or legal case might give rise to conflicts[13]. It can be difficult to decide whose laws should be applied in the event of a legal dispute arising from a cross-border research cooperation. Enforcing legal judgments across borders can also be difficult due to differences in legal standards and procedures. This issue is particularly relevant in cases involving contract disputes or intellectual property rights.

Compliance and Reporting Requirements- Different countries have different requirements for legal compliance and reporting, making it difficult to standardize procedures for MLA. Standardizing legal

[11] *Id.*

[12] *Marrison, E. (23 July, 2020), Experts examine challenges facing research universities, SSTI Organisation, https://ssti.org/blog/experts-examine-challenges-facing-research-universities.*

[13] *Shuvalova, MA (2022). Implementation of Legal Education at Higher Education Institutions, The European Proceedings of Social and Behavioural Sciences.*

compliance and reporting procedures for mutual legal assistance (MLA) across different countries is a challenging task due to the diverse legal frameworks, regulatory requirements, and administrative practices in place globally. Standards for adherence to laws governing education and research vary throughout nations. For instance, whilst some nations may have more lax requirements for research ethics and academic integrity, others may have more stringent laws.

Language Terminology- Language differences can lead to misunderstandings and misinterpretations of legal terms and agreements, impacting the effectiveness of MLA. Accurate legal document translation is important, but it can be difficult, which could result in differences or mistakes while implementing MLA agreements. Disagreements about the enforcement of contracts and agreements might arise from misinterpretations brought on by linguistic difficulties. When parties interpret the provisions of a contract differently, dispute resolution can get complicated and heated[14].

Data Protection and Privacy- Variations in data protection and privacy laws across different regions significantly impact data sharing and legal assistance processes in the context of cross-border higher education. These differences can create challenges in ensuring compliance, maintaining privacy, and facilitating effective collaboration. In Europe, the GDPR (General Data Protection Regulation) sets stringent standards for data protection and privacy. It requires institutions to ensure that personal data is collected, processed, and stored with strict safeguards, and it includes provisions for data subject rights, cross-border data transfers, and breach notifications. Laws pertaining to data protection vary state by state. For instance, the GDPR and the California Consumer Privacy Act (CCPA) in the US have distinct regulations. Similarly, the extent and rigor of data protection laws differ in nations like China, Brazil, Japan, and others[15].

VI. RECOMMENDATIONS TO ENHANCE THE EFFECTIVENESS OF MLA IN FACILITATING HIGHER EDUCATION RESEARCH

Improving the efficacy of Mutual Legal Assistance (MLA) in promoting research in higher education necessitates tackling a range of issues, including managing legal frameworks and data protection requirements and guaranteeing seamless cross-border cooperation. Some recommendations to improve the MLA Process have been provided hereinbelow:

Establishing Model Agreement- Develop model MLA agreements tailored to higher education research. These templates should cover common issues such as data sharing, intellectual property rights, and compliance with research ethics. These agreements should provide a clear framework for collaboration while ensuring compliance with legal and regulatory requirements. Clearly state the goals and purpose of the MLA agreement, which is to promote international cooperation in higher education research[16]. The types of data that is to be collected should also be specified, including personal data, research data, and sensitive information. Outline the purposes for which the data will be used.

Bilateral and Regional agreement: Bilateral and

[14]*Vincent-Lancrin, S., D. Fisher and S. Pfotenhauer (2015), Ensuring Quality in Cross-Border Higher Education: Implementing the UNESCO/OECD Guidelines, OECD Publishing, Paris. http://dx.doi.org/10.1787/9789264243538-en*

[15]*Id.*

[16]*Tilak J.B.G. (2011), Trade in Higher Education: The Role of the General Agreement on Trade in Services (GATS), UNESCO: International Institute for Educational Planning, https://unesdoc.unesco.org/ark:/48223/pf0000214997*

regional agreements between nations designed especially for research in higher education can successfully handle particular legal and regulatory issues. These agreements can promote smoother relations between institutions in several countries, expedite collaboration, and unify legislation. The agreement should describe the precise areas of cooperation, such as the academic disciplines, project kinds, and research domains. This guarantees that the agreement is centered on shared research objectives. The agreement should identify the institutions and specify their roles and responsibilities. This can include research responsibilities, administrative duties, and financial contributions. The agreement should aligns with the legal and regulatory requirements of each participating country. This includes compliance with laws related to research ethics, data protection, intellectual property, and export controls. It should also encourage the mutual recognition of national legal and regulatory requirements that are pertinent to research in higher education in each nation. This can assist in resolving inconsistencies and guaranteeing uniform enforcement of regulations.

Enhancing Legal and Regulatory Coordination- Establish committees or liaison offices within organizations to deal with MLA-related matters. These groups are able to settle conflicts, guarantee compliance, and communicate with law enforcement. Participate in international meetings and networks devoted to MLA and higher education research to promote international cooperation.

Training Programs for Researchers on Navigating MLA Processes- Training courses created to assist researchers in efficiently navigating MLA procedures can help close the gap between the goals of research and legal regulations. These courses ought to be thorough, covering MLA's academic and practical facets. Researchers should be train on how to create a clear, precise request, identify the information they need, and ensure that it complies with legal requirements while drafting an MLA request. Provide specialized assistance with MLA requests to researchers at help desks or centers. Legal experts with MLA experience could work in these centers.

Review and Improve Legal Frameworks: Mutual Legal Assistance (MLA) treaties and agreements must be periodically reviewed and updated to stay effective and relevant, particularly when it comes to academic and research applications. The implementing authority should make sure that changes are in line with changing research demands and technology improvements. Identification and fixation of any loopholes or inefficiencies in the present MLA treaties and agreements is important. Promote global collaboration and adherence to new legal standards. Feedback from researchers and legal practitioners can play a crucial role while making modifications or changes in the Mutual Legal Assistance agreements. Consultation with international organizations, legal experts, and academic institutions to get their opinions on suggested changes and adjustments can also be adopted by the concerned institution and government for the overall development of Mutual Legal Assistance agreements.

VII.CONCLUSION

This paper has explored the role of Mutual Legal Assistance (MLA) in higher studies through cross border collaboration. This paper has discussed the importance and necessity to have the MLA between institutions and the governments in higher education

for better access and research in higher education sector. The students and research scholars would benefit a lot from these types of agreements. It is one of the way to improve the academic excellence and decrease the friction between the institutions and the foreign students. Though, the MLA can play a crucial role in developing the educational landscape of many developing countries, its poor implementation remain concern for most scholars. It can have a significant negative impact on research quality, collaboration, and efficiency. Therefore, some recommendations for the overall improvement of MLA have been suggested in the paper. Time to time review of the agreement, training session for the scholars, having proper legal and regulatory authority can help in resolving disputes concerning poor implementation of the MLA agreement.

Numerous studies use information or proof that isn't limited to a single nation. International data access is facilitated by MLA and is essential for thorough and significant research, especially in environmental science, epidemiology, and international law. Collaborative research collaborations involving several universities from various nations are common in higher education. MLA facilitates the information and evidence sharing that partners require to collaborate successfully, hence supporting various kinds of partnerships. Keeping in mind all these benefits that can be derived from the MLA, it is very important to have a comprehensive and mutual beneficial relationship between the educational institutions and the government in the higher studies sector through this type of agreements.

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A ROBUST ANALYSIS OF REINFORCEMENT OF HUMAN VALUES THROUGH INTELLECTUAL PROPERTY RIGHTS TOWARDS ACHIEVING विकसित भारत @ 2047

Ishan Ahmad [1]

ABSTRACT

In the cuThis paper ascertains an analytical study of the recent approach of Government for reinforcement of Human Values through Geographical Indications, aiming to achieve the aim of विकसित भारत *@ 2047. India is a country, which has been always been the gold mine of rich assets high monetary worth. People od India have always positive human values and ability to create high quality items like crafted works, adornments, materials, and they have been providing their expertise to the entire world for several ages, and trying to preserve their enriched cultural heritage from getting lost with the time. Geographical Indications being, part of Intellectual Property Rights have a peculiar characteristic to denote and preserve the rights of to the whole community. Geographical indications are truly means aiming to guaranty the preservation of human values. Be it Trademarks, copy rights, patents, geographical indications, designs, Semiconductors or newly transforming Trade secrets, the protection of Intellectual property rights provide an exhaustive framework to protect the heritage human values associated with the producers/ proprietors/ authors/ inventors in the respective Intellectual Property Domains. In this paper, the author will be highlighting the challenges faced by the originators various properties qua Intellectual Property Rights associated with them while procuring their protection and how the human rights and values associated with the IPRs can be secured. Also, it will be analyzed that how the human rights guaranteed by the intellectual Property Rights can help in achieving the mission of* विकसित भारत *@ 2047?*

Keywords: *Intellectual Property Rights, Geographical Indications, Producers etc.*

I. INTRODUCTION

"I do not feel obliged to believe that the same God who has endowed us with sense, reason, and intellect has intended us to forgo their use."

- Galileo Galilee [2]

India is a country which has a treasure, which is truly blessed with rich regular assets of farming items and different merchandise of high monetary worth. Rustic people in different districts of our nation have one-of-a-kind aptitude and ability to create high-quality items like crafted works, adornments, materials other related items and they are engaged with their expertise for several ages, and with the passage of time, they are trying to safe guard their heritage from getting lost with time.

LITERATURE REVIEW:

Various literatures have been reviewed considering following phenomenon:

(a) Procedural aspects of IPR.

(b) Creation and enforcement of new IP rights.

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[2] *Amikar Parwar, Importance of Geographical Indication in the Growing IPR World, 1, 2009, available on https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1444419 (Last visited on 23rd August 2024).*

(c) Progressive standardisation of features of IPR in India vis-à-vis developed countries of the world.

Following are the articles/ research materials which have been analyzed for the proposal basis:

1. Abbott, F., T. Cottier, and F. Gurry (1999) The International Intellectual Property System: Commentary and Materials. The Hague, London and Boston, Kluwer Law International. Voluminous (two volume) resource book set on the international IPR system.

"It provides an integrated perspective including history, economics and social implications and contains excerpts of articles by other authors, court cases and legal materials."

2. Cornish, W. R. (1999) Intellectual Property: Patents, Copyright, Trademarks and Allied Rights. London, Sweet and Maxwell. Definitive textbook on intellectual property rights.

"The new edition takes account of new developments in areas such as database protection rights, rights in performances, biotechnological patents, internet copyright, parallel importing and UK and EU trademark law."

3. Drahos, P. (1997) "States and intellectual property: the past, the present and the future". From Berne to Geneva: Recent Developments in Copyright and Neighbouring Rights. D. Saunders and B. Sherman. Brisbane, Australian Key Centre for Cultural and Media Policy and Impart Corporation: 47-70. [http://138.77.20.51/Impart/drahos.html].

4. Global Innovation Index 2023, 16th Edition, The index discusses the rankings of various countries in different categories.

https://www.wipo.int/edocs/pubdocs/en/wipo-pub-2000-2023-en-main-report-global-innovation-index-2023-16th-edition.pdf.

5. Cohen, Mark A., A. Elizabeth Bang, and Stephanie J. Mitchell, eds. Chinese Intellectual Property Law and Practice. Boston, Mass.: Kluwer Law International, 1999.

"This book consists of a series of articles authored by leading American and Chinese legal scholars and practitioners. Designed to show the complex nature of protecting IPR in China, the book covers broad topics: an overview of intellectual property laws, Chinese IPR and the world, legal measures to protect IP rights, and case studies."

RESEARCH OBJECTIVE:

1. The major research objective is to propose a robust legal framework through which India can be the global leader in the intellectual property realm, where creativity and innovation thrive, and IPRs can play a pivotal role in promoting economic development and social welfare.

2. Recommending a dynamic intellectual property right regime to achieve the goal of ***"VIKSIT BHARAT @ 2047".***

3. Analysing the efficacy of the recent schemes launched by the Government of India in collaboration with various Ministries, and different state governments, aiming for the promotion of IPR.

4. Streamlining Indian IPR with international organizations standards, with the objective to attract foreign direct investment for the upliftment and development of MSMEs and the research centers across the country..

5. Smoothening the procedural rules of various Intellectual Property Rights statutes and creating a fast and efficient environment for applying and granting the Intellectual Property Rights and their protection as

well.

6. Analysing the challenges faced by leading Academic institutions like Indian Institute of Technology or leading commercial organisations in pharmaceutical sector, Defence organizations or other commercial entities, in the country for procuring IP protection.

7. Analysing the Inclusivity in the Indian IPR regime. "Currently, Indian women inventors file only around 10 percent of PCT applications. This is below the global average of 16.5 percent and behind other fast-growing economies such China and Türkiye, where women account for around a quarter of PCT applications.

RESEARCH QUESTIONS:

1. What are the legislative and policy challenges that affect peripheral IPR applications followed by IPR grants, specifically for Patent?

2. What are the ambiguities & flaws in the rules pertaining to the procedural aspects for the registration of the particular product or process?

3. Why does India continue to persist on the United States Trade Representative's (USTR's) "Priority Watch List" for alleged infringements of intellectual property rights (IPR)?

4. What are the procedural & policy strategies adopted by developed countries like the US, Japan & China to have an IP ecosystem that fosters creativity and innovation?

5. How significant is the approach of various leading commercial organisations i. e. prominent pharmaceuticals research organizations, Defence organizations or other commercial entities, in the country for promoting the copyright or patent or trademark or design protections' applications?

6. What are the challenges and discrepancies faced by Indian IPR users while opting through various international filing systems like Paris Cooperation Treaty (PCT), Madrid Protocol, Domain Patent System etc is sufficient enough?

STATEMENT OF PROBLEM:

Technology and Innovation are powerful drivers of economic growth. R & D investments are critical in supporting Innovation. But it is also essential that we harness the cumulative strengths of the global Innovation ecosystem, in order to nurture opportunities for social development and enhance creative, inclusive, and collaborative growth with a robust IPR landscape.

Over time, India has been consistently improving its IPR environment in par with international standards. But still the IPR domain in our country needs certain robust modifications in the substantive and procedural framework for grant of IP rights and its enforcement. India has yet to take meaningful steps to address long standing IP issues faced by Innovation-driven industries, focusing on creating a better IPR environment supporting Innovation & investment.

RESEARCH HYPOTHESIS:

Stronger IPR protection can ultimately reap rewards in terms of greater domestic innovation and increased technology diffusion in developing countries with sufficient capacity to innovate.

RESEARCH METHODOLOGY:

The study will employ both qualitative empirical research (interviews, case studies, focus groups) and quantitative empirical research (surveys, experiments, cross-sectional studies).

RESEARCH IMPACT:

The research will definitely have a high academic & scientific impact apart from the expected socio-

economic impact. The research will try to streamline the flaws present in the different IP statutes which make the Indian IPR regime not homely for foreign investors[3].

VIKSIT BHARAT @ 2047

Intellectual property domain occupies a prominent position in the economic and social strata of our society. The intellectual property laws aim at shielding the interests of makers by conceding them certain time-constrained rights to control the utilization made of those item benefits. Also, it helps in developing some harmony between the interests of innovators and the public, provided to protect what is more significant for the development and the social wellbeing.

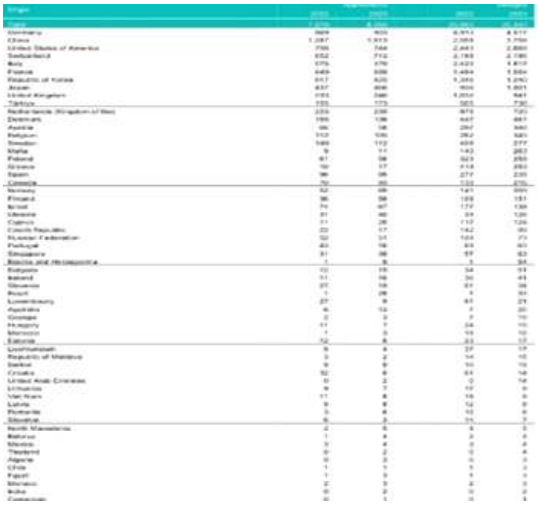
A look at the patent applications at an international level by origin reflects that the developed countries of the world are not only generating a higher per capita income as we all know but their patent applications are in much higher numbers than our country. A small table depicted below reflects the trend of last two years that the developed countries in patent applications are over **20 times than India[4]:**

Origin	2022	2023 Estimate
Total	277,632	272,600
China	70,017	69,610
United States of America	58,823	55,678
Japan	50,351	48,879
Republic of Korea	22,023	22,288
Germany	17,469	16,916
France	7,761	7,916
United Kingdom	5,716	5,586
Switzerland	5,446	5,382
Sweden	4,481	4,323
Netherlands (Kingdom of the)	4,025	4,258
India	2,622	3,791
Italy	3,317	3,102
Canada	2,577	2,390
Türkiye	1,771	1,921
Israel	1,967	1,908
Singapore	1,835	1,742
Austria	1,422	1,552
Finland	1,768	1,542
Denmark	1,497	1,534

Similarly, if we analyse the international trademark applications by origin (Madrid System) data of 2023 provided by World Intellectual Property Organization, the position of India is 23rd, whereas the number of applications are **446** for **India** in comparison to **United States of America** which are **10987[5]**:

Origin	2022	2023 Estimate
Total	69,022	64,200
United States of America	12,456	10,987
Germany	7,690	6,613
China	5,082	5,473
France	4,394	4,267
United Kingdom	4,194	3,817
Switzerland	3,750	3,284
Japan	3,117	2,846
Italy	2,839	2,729
Republic of Korea	2,031	2,090
Australia	2,342	2,016
Türkiye	2,385	1,700
Netherlands (Kingdom of the)	1,805	1,609
Spain	1,577	1,592
Russian Federation	1,438	1,564
Singapore	877	953
Sweden	1,158	948
Austria	1,108	889
Canada	920	867
Belgium	743	704
Denmark	730	680
Poland	443	572
New Zealand	474	471
India	441	448
Israel	418	403
Finland	437	377
Ukraine	302	365
Luxembourg	359	333
Portugal	261	298
Czech Republic	231	297
Norway	374	292

Similarly, if the data provided for 2023 by World Intellectual Property Organization for the International Industrial Designs by origin (Hague System)[6]:



[3] *Available at https://www.wipo.int/publications/en/details.jsp?id=4678 (Last visited on 28th may 2024).*

[4] *International Patent applications by origins, Available at https://www.wipo.int/export/sites/www/pressroom/en/documents/pr-services2024-annexes.pdf (Last visited on 27th August 2024).*

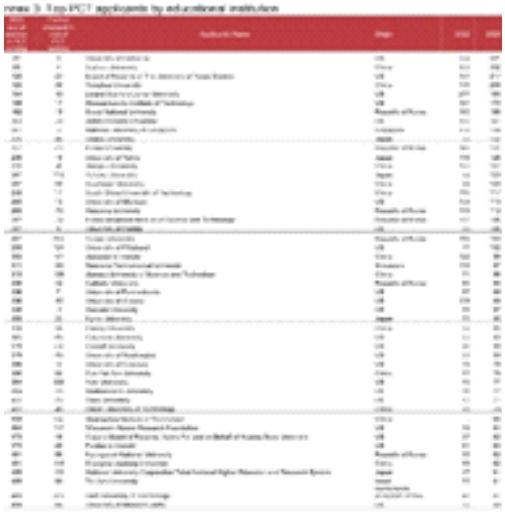
[5] *International trademarks applications by origins, Available at https://www.wipo.int/export/sites/www/pressroom/en/documents/pr-services2024-annexes.pdf (Last visited on 27th August 2024).*

[6] *International industrial designs by origins, Available at https://www.wipo.int/export/sites/www/pressroom/en/documents/pr-services2024-annexes.pdf (Last visited on 27th August 2024).*

Also, as per the data provided for Top filing party location in WIPO domain name cases in 2023, **India** has attained only **85** domain name cases in comparison to **United States of America** which has attained **2167** in number[7] .

2023 Ranking	Complainant country	No. of cases
1	United States of America	2167
2	France	1327
3	United Kingdom	509
4	Germany	273
5	Switzerland	256
6	Italy	192
7	Denmark	139
8	Netherlands	134
9	Sweden	108
10	Belgium	102
11	Australia	90
12	India	85
13	Spain	75
13	Luxembourg	56
15	Singapore	56
16	Mexico	53
17	Norway	44
18	China	41
19	Brazil	40
20	Finland	33

Similarly, if we analyse the list of Top PCT applicants[8] , or Top PCT applicants by educational institutions[9] , Top Madrid applicants[10] , Top Hague applicants[11] , or Top 25 filing parties in WIPO domain name cases[12] in 2023, it is apparent that not even a single India based company could get through the list.









[7] *Top filing party location in WIPO domain name cases, Available at https://www.wipo.int/export/sites/www/pressroom/en/documents/pr-services2024-annexes.pdf (Last visited on 27th August 2024).*

[8] *Top PCT applicants, Available at https://www.wipo.int/export/sites/www/pressroom/en/documents/pr-services2024-annexes.pdf (Last visited on 27th August 2024)*

[9] *Top PCT applicants by educational institution, Available at https://www.wipo.int/export/sites/www/pressroom/en/documents/pr-services2024-annexes.pdf (Last visited on 27th August 2024)*

[10] *Top Madrid applicants, Available at https://www.wipo.int/export/sites/www/pressroom/en/documents/pr-services2024-annexes.pdf (Last visited on 27th August 2024)*

[11] *Top Hague applicants, Available at https://www.wipo.int/export/sites/www/pressroom/en/documents/pr-services2024-annexes.pdf (Last visited on 27th August 2024)*

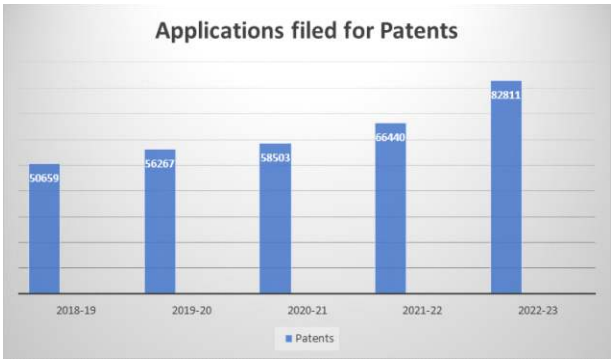
[12] *Top 25 filing parties in WIPO domain name cases, Available at https://www.wipo.int/export/sites/www/pressroom/en/documents/pr-services2024 annexes.pdf (Last visited on 27th August 2024)*

Annex 11

Top 25 filing parties in WIPO domain name cases in 2023

2023 Ranking	Filing party	No. of cases
1	LEGO	98
2	Boursorama	92
3	Carrefour	88
4	Meta	85
5	Michelin	80
6	Fenix	75
7	Philip Morris	70
8	Sodexo	58
9	Aldi	44
10	American Airlines	42
11	Sanofi	41
12	Instagram	38
13	Equifax	37
13	Equinor	37
15	Belfius Bank	36
16	Alstom	32
16	GrabTaxi	32
18	Bulgari	29
18	Caffè Borbone	29
18	Canva	29
21	Bayer	27
22	HM Revenue and Customs	26
23	Sopra Steria	25
24	Virgin Enterprises	24
25	Walgreen	23

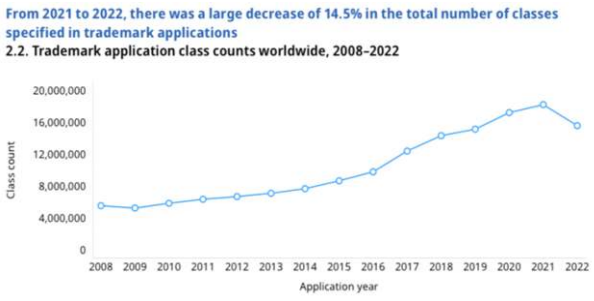
The results of these reforms are visible in terms of higher filings and grants of patent application. there has been an increase in the number of patent applications up from 50659 in 2018-19 to 82811 in 2022-23[13]



Similarly, in trademarks related applications, there is a considerable increase in the rate of registration for trademark, since 2017-18 when the applications filed were 272974 while in 2022-23, the applications filed increased 466580. There have been procedural improvements for trademark applications such as automatic allotment of applications to examiners, automating of renewal etc[14].



Despite these improvements, note that India lags behind its global peers. In 2023, the number of patents filed in India was 90300, while in China, 15,85,663 applications filed in 2021 and 16,19,268 in 2022 applications were filed and in United States, 591,473 applications were filed in 2021, and 594,340 applications were filed in the year 2022. Similarly, the patent granted in India were 26361 as compared to 5.3 lakh in China and 3.5 lakh in US. Moreover, **in India, it takes about 58 months on average to dispose of a patent application as compared to about 20 months in China and 23 months in US [15].**



[13] *Annual Report 2022-23, The office of the controller general of Patents, Designs, Trademarks and Geographical Indications, Available at https://ipindia.gov.in/writereaddata/Portal/IPOAnnualReport/1_114_1_ANNUAL_REPORT_202223_English.pdf (Last visited on 27th August 2024)*

[14] *Annual Report 2022-23, The office of the controller general of Patents, Designs, Trademarks and Geographical Indications, Available at https://ipindia.gov.in/writereaddata/Portal/IPOAnnualReport/1_114_1_ANNUAL_REPORT_202223_English.pdf (Last visited on 27th August 2024)*

[15] *Why India needs to urgently invest in its patent ecosystem? Economic Advisory Council to PM, Sanjeev Sanyal and Aakanksha Arora, August 2022, Available at https://www.ies.gov.in/pdfs/why-India-needs-to-urgently-invest-in-its-IPR-ecosystem-16th-Aug-2022.pdf (Last visited on 29th August 2024)*

So, it is not a matter of dispute that we are lagging much behind in patent applications even when our brains are said to be one of the best in Information Technology, Electronics, pharmaceuticals, computers, bio technology etc.

Reading of the literature available reflects that the central body connected with the filing and the regulation of the patents either existing or new is governed primarily by the Patent Act, 1970 and the application is to be made, either by the inventor or by his assignee or otherwise permissible under the act. Rough order of magnitude reflects that the registration cost involved is within Rs. One lakh. Then the question arises: why our patent granted are so low in numbers, even when we call ourselves as the smartest developer in the field of IT, electronics, pharmaceuticals, computer sciences, bio technology etc.

PATENTS

Every 6 minutes one technology is seeking IP protection in India. In 2023, an all-time high of 90300 patent applications were received. Patent office granted over one lakh Patents in the last one year (15-Mar-2023 to 14-Mar-2024). Every working day, 250 patents were granted.

GEOGRAPHICAL INDICATIONS

There has been a notable surge in Geographical Indication (GI) registrations, demonstrating a threefold increase compared to the previous year. As on date, 573 GIs are registered in India. In 2023-24, 98 new GIs have been registered and another 62 will be registered by 31st March 2024. In addition, 11621 authorized users are registered, and an additional 2575 users will be registered by 31st March 2024.

COPYRIGHT

The fiscal year 2023-24 witnessed a record-breaking number of copyright registrations, totalling 36,378, thus underscoring the vast potential within the creative sector. Measures to further promote awareness about the strategic role of copyright in creative industry is planned[16].

DESIGN

During the fiscal year 2023-24, the highest number of design registrations to date, totalling 27,819, were recorded, alongside final disposal of 30,450 applications. Over 1.25 lakhs students participated in Toycathon, an initiative jointly organized by J&K SCERT[17] and Indian IP Office. 115 novel designs by J&K School students received through the event were registered.

WHERE DOES THE GAP LIES?

There are various issues involved in the process of enhancing, manufacturing and servicing capabilities in our country. There are certain fields which requires only proven technology and proven methods for manufacturing. This problem is mounting day by day in highly specialised fields like defence sector, aerospace, semiconductor, pharmaceuticals, biotechnology etc. The foreign suppliers are not providing full technology in Transfer of Technology (TOT) on the pretext that they have IPR protection and also their government is not permitting them to share the technology. All this lead us to believe that we will be always dependant on foreign companies and foreign governments. This is one of the reasons that

[16] *Available at https://pib.gov.in/PressReleasePage.aspx?PRID=2015234#:~:text=Every%206%20minutes%20one%20technology,day%2C%20250%20patent%20were%20granted. (Last visited on 27th August 2024)*

[17] *Grand finale of "Toycathon 2023", Rising Kashmir, Available at https://risingkashmir.com/grand-finale-of-toycathon-2023-today/ (Last visited on 27th August 2024)*

indigenisation program needs to be expedited so that we are less dependent on foreign companies and foreign governments. This requires expediting IPR processing and approvals, no doubt giving much stress on new innovations in all fields.

The procedural ambiguities present in the various Intellectual Property Rules, have been a question of concern for almost last 20 years. Since the inception of covid pandemic and till today, the threshold limitations under various IPR regimes which have been mandated by the respective laws, have not been followed. It has been witnessed a stiffness in the granting of the registration for the various IPR domain protection. Through this project, it will be analysed that why even after the predominance of the exhaustive robust mechanism for the registration under various IPR domains. The gap in substantiating the various IPR protections, which has been tried to filled up through various research and think tanks like PSUs, IITs, leading educational institutions and Research and Development Centres of various leading private companies, despite their efforts, why India is not top 10 of the applications filed or in the list of granting the protection. Also, there are various analogous issues that have been witnessed in availing various leading international filing systems like Madrid Filing, International domain name which are playing a very detrimental role in the deterioration of Human rights of the proprietors of any Intellectual Property Rights domain..

INTELLECTUAL PROPERTY RIGHTS DOMINANCE PREVALENT FOR VISION विकसित भारत @ 2047

"Intelligence, Ideas and Innovation are the identity of Indian youth today with the combination of technology. Their intellectual properties are continuously increasing which will enhance the capability of the entire country."

-Hon'ble Prime Minister, Shri Narendra Modi[18]

No doubt, there have been significant improvements in the patent and trademark application process in the last few years, the results of which are already visible in terms of higher filings and grants of patents and registration of trademarks and reduced processing times. Despite the fact that the patent filed and granted have increased in the recent years, yet they are much lower when compared to the global peers- US, China. Moreover, the average time taken for disposing off a patent application in China and US is 20- 21 months, which is almost 1/3rd of the time taken in India. Similarly, the trademark applications and registration has increased considerably over the years. India has become the fifth largest office in terms of filing trademark applications. Even in terms of processing, India is not far behind the global peers in cases where no opposition is filed against a trademark application. The issue arises in case any opposition is filed, where the applications take about 5-10 years for processing. At end June 2022, about 2.4 lakh trademark applications were pending at the opposition stage. In both, patents and trademarks, the key issue is the shortage of manpower.

CONCLUSION

Recently, In the month of January 2024, the office of the

[18] *Available at Mann ki batt, dated 26th August 2023, at https://www.youtube.com/watch?v=u0DahgZpPtA (last visited on 22nd September 2024)*
[19] *Available at https://spicyip.com/2024/07/a-sigh-of-relief-for-ipo-officers-as-ministry-of-commerce-scraps-259-show-cause-notices.html (Last visited on 27th August 2024)*
[19] *Grand finale of "Toycathon 2023", Rising Kashmir, Available at https://risingkashmir.com/grand-finale-of-toycathon-2023-today/ (Last visited on 27th August 2024)*

Controller General of Patents, Designs and Trademarks (CGPDTM), Ministry of Commerce, Government of India issued show cause notices to patent officers, alleging the officers' poor performance, insubordination and violation of the conduct rules of the office, and ask why disciplinary proceedings should not be initiated against them and why their demotion to their previous designation should not be recommended to the Govt. of India[19] .

Hence, the first step that needs to be undertaken is to increase the manpower immediately, with higher focus at the controller level in patents and with higher focus at the assistant registrar level and above in trademarks to clear the backlog. Going forward, the manpower needs to be increased at all levels to keep in line with the increased filing trends and be able to compete with global peers. As a rough estimate, the manpower in patent office should increase from around 860 to 2800 in the next two years and in trademark office, the sanctioned posts should be filled immediately taking the manpower from 168 currently to 289. The hiring of more manpower should not be delayed on financial grounds as this is a revenue generating activity for the government. Also, a short certificate course (like a diploma) may be developed in collaboration with some academic institutions that may be done concurrently with the existing graduation courses. Those who have done this course, after fulfilling the minimum qualification criteria, would then be eligible for hiring for the role of examiners on contractual basis. Furthermore, to attract good talent, there is a need to build the career path of the 26 employees in the Office of CGDTPM. Apart from increasing manpower, there is a need to address issues in the patent application process including fixing time for various stages of the process including for pre-grant opposition, and reducing compliance requirements. Further, there is a need to look at introducing utility model of patents, making various improvements in filing and IT systems, and outsourcing the administrative part of the process which can simplify and fasten the process.

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MORAL VALUE, HUMAN VALUES & ETHICS IN HIGHER EDUCATION

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ABSTRACT

Moral & Human value in higher education encompasses the development of students' intellectual, ethical, and social qualities. It involves fostering critical thinking, ethical reasoning, and interpersonal skills. Higher education aims to not only impart knowledge but also to nurture personal growth, social responsibility, and a sense of purpose. By emphasizing human value, institutions strive to prepare students to contribute meaningfully to society, adapt to a changing world, and lead with empathy and integrity. The importance of human value in higher education lies in its role in shaping well-rounded individuals who are not only skilled professionals but also ethical and compassionate citizens. By integrating human values such as empathy, integrity, and social responsibility, higher education institutions aim to prepare students to tackle complex global challenges, contribute positively to their communities, and lead with a sense of purpose and moral clarity. This holistic approach enhances both personal and professional development, ultimately leading to a more equitable and just society.

KEYWORDS: *Human Values, Higher education, Ethics, Moral Values, Society, Government*

I. INTRODUCTION

"Your beliefs become your thoughts,Your thoughts become your words,Your words become your actions,Your actions become your habits,Your habits become your values,Your values become your destiny."- Mahatma Gandhi Ji.

Moral & Human value in higher education underscores the critical role that institutions play in developing students' intellectual, ethical, and social capacities. Beyond imparting technical knowledge and vocational skills, higher education aims to cultivate core human values such as integrity, empathy, and social responsibility. This holistic educational approach seeks to prepare students not only for professional success but also for meaningful contributions to society. By emphasizing human values, higher education fosters critical thinking, ethical decision-making, and a sense of purpose, ultimately shaping graduates who are equipped to address global challenges and lead with compassion and ethical conviction.

II. REVIEW OF LITERATURE:

Ashotosh (2014) concluded in his research paper that how much human values are needed in higher education. For this, he took the opinion of the students studying in higher education and analyzed it in detail.

David (2015) concluded in his research that the study of moral norms in various academic fields such as sociology, psychology, religion, law and philosophy is known as ethics. Furthermore, ethics can be seen as a process, approach or perspective used to decide how to

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behave and examine difficult situations.

Kodari Krishna Prasad (2019) 'Importance of Ethics in Higher Education', the author says that honesty, confidentiality, conflict of interest and responsibilities are the four basic principles in ethical codes.

UN Human Development Report 2019: This report explores the ethical dimensions of human development in the context of global crises, including humanitarian and health emergencies, and the role of international institutions in promoting ethical and sustainable development.

III. RESEARCH OBJECTIVES:

The main objective of this research paper is to find out the importance and utility of human values in higher education and analyze them. To find out how useful human values are in higher education. To know how to incorporate human values in the course material of higher education, and what will be the effective means of implementing it through which human values will prove to be helpful in building the character of students in higher education in an effective manner.

IV. RESEARCH METHODOLOGY:

This research paper analyzes the importance and utility of moral value & human values in higher education. For this purpose, this paper uses qualitative research methodology for the study. Data is collected from scholarly articles, books and reputable research databases. The study uses a conceptual framework to organize and analyze the data, focusing on key ethical principles and issues in educational research.

V. DISSCUSION & ANALYSIS

MORAL VALUE & HUMAN VALUE IN HIGHER EDUCATION:

Moral value & Human values play a crucial role in higher education by fostering ethical behavior, social responsibility, and holistic development among students. Educational institutions are encouraged to integrate values such as compassion, honesty, and kindness into their curricula to promote a well-rounded character in students. This approach not only enhances academic learning but also prepares students to contribute positively to society. The emphasis on human values aligns with global educational policies aimed at creating a more humane and ethical society

HOW CAN HIGHER EDUCATION INSTITUTIONS EFFECTIVELY INTEGRATE MORAL VALUES INTO THEIR CURRICULUM:

Integrating moral values in higher education curriculum is a major task and higher education institutions can effectively integrate moral & human values in their curriculum through the following methods:

- **Incorporating Universal Moral & Human Values (UHV) Courses-** The All India Council for Technical Education (AICTE) has launched an initiative to integrate UHV courses into technical education to build life skills and produce good citizens. These courses focus on teaching universal moral & human values like moral values, patience, honesty, love, goodwill, kindness, compassion, and humanity.
- **Permeating Moral & Human Values across all Subjects-** Moral & Human values should permeate and inform teaching in all branches of knowledge and all subjects. Affirmation that human values should be a part of the curriculum in both technical and non-technical streams.
- **Using Experiential Learning Techniques-** Integrating values into higher education using experiential learning techniques. Adapting entertaining means and methods to tune young

learners to imbibe values.

- **Emphasizing Character Formation and Moral Development-** Education should be aimed at forming character, increasing strength of mind, expanding intellect, and enabling students to stand on their own feet. Inculcation of values in education is necessary for peace, prosperity, and development in the world.

By incorporating these approaches, higher education institutions can effectively integrate Moral & human values into their curricula, fostering the holistic development of students and preparing them to contribute positively to society.

WHAT ARE SOME INNOVATIVE METHODS TO TEACH MORAL & HUMAN VALUES IN HIGHER EDUCATION

Innovative methods to teach moral & human values in higher education include:

- **Project-Based Learning: Engaging students in real**-world projects that require teamwork, communication, and problem-solving, fostering a deeper understanding of human values through practical application.
- **Experiential Learning: Emphasizing hands-**on experiences that allow students to reflect on their actions and decisions, promoting empathy and ethical reasoning.
- **Flipped Classrooms**: Encouraging students to engage with material outside of class, allowing for in-depth discussions on values during class time, enhancing critical thinking and moral reasoning.
- **Inquiry-Based Learning**: Students explore complex questions related to human values, developing their analytical skills and understanding of ethical implications in various contexts.
- **Interdisciplinary Approaches:** Integrating human values across different subjects, ensuring that students see the relevance of ethics in diverse fields.

These methods not only impart knowledge but also cultivate essential life skills and a sense of social responsibility among students.

HOW CAN PROJECT-BASED LEARNING BE USED TO TEACH MORAL & HUMAN VALUES

- **Using Project-Based Learning to Teach Human Values:** Project-based learning (PBL) can be an effective approach to teaching human values in higher education. By engaging students in real-world projects that require teamwork, communication, and ethical decision-making, PBL can foster a deeper understanding and application of human values. Here are some ways PBL can be used to teach human values:
- **Incorporating Human Values into Project Objectives:** Design projects that have a clear focus on human values such as compassion, integrity, and social responsibility. Require students to consider the ethical implications of their project decisions and actions.
- **Emphasizing Teamwork and Collaboration:** Structure projects to involve group work, allowing students to practice skills like empathy, conflict resolution, and compromise. Encourage students to appreciate diverse perspectives and work together towards a common goal.
- **Connecting Projects to Real-World Issues:** Choose projects that address real social, environmental, or community problems. Expose students to the complexities of these issues and the need for ethical solutions.
- **Facilitating Reflection and Discussion:** Incorporate reflection activities that prompt students to think critically about their values and actions. Encourage open discussions about the ethical

dilemmas encountered during the project.

- **Assessing Moral & Human Values Outcomes:** Develop assessment criteria that measure students' understanding and application of Moral & human values. Provide feedback on how students can further develop their ethical decision-making skills.

By integrating these elements into PBL, higher education institutions can effectively teach human values while also developing critical thinking, problem-solving, and teamwork skills in students.

WHAT SPECIFIC MORAL & HUMAN VALUES ARE MOST EFFECTIVELY TAUGHT THROUGH PROJECT-BASED LEARNING

- **Human Values Effectively Taught Through Project:** Based Learning, Project-based learning (PBL) is an effective approach for teaching a variety of human values to students in higher education. Some of the key values that can be effectively imparted through PBL include:
- **Teamwork and Collaboration:** PBL encourages students to work in teams, fostering skills like empathy, compromise, and respect for diverse perspectives. By collaborating on projects, students learn the value of cooperation and collective problem-solving.
- **Social Responsibility:** Many PBL projects involve addressing real-world community issues and problems. This exposure helps students develop a sense of social responsibility and the desire to make a positive impact on society.
- **Creativity and Innovation:** PBL provides a platform for students to express their creativity and develop innovative solutions to complex problems. This encourages values like open-mindedness, risk-taking, and thinking outside the box.
- **Integrity and Ethics:** When working on projects, students must navigate ethical dilemmas and make decisions that uphold moral principles. This experience helps them develop a strong sense of integrity and the ability to act ethically in various situations.
- **Lifelong Learning:** PBL emphasizes learning by doing and encourages students to take ownership of their education. This promotes values like curiosity, adaptability, and a growth mindset, which are essential for lifelong learning and success.

By incorporating these human values into PBL projects and activities, higher education institutions can effectively cultivate well-rounded individuals who are prepared to navigate the complexities of the real world.

MORAL VALUE & HUMAN VALUE IN PROFESSIONAL LIFE:

Moral value & Human values are essential in professional life as they shape behavior, guide ethical decision-making, and foster trust and respect among colleagues. Core values such as honesty, integrity, responsibility, and empathy enhance workplace relationships and contribute to a positive organizational culture. They also influence personal growth and emotional well-being, leading to more fulfilling professional interactions. Employers often prioritize candidates with strong human values, recognizing their impact on teamwork and overall success in the workplace.

HOW DO MORAL VALUE & HUMAN VALUES IMPACT WORKPLACE CULTURE:

Moral Value & Human values significantly impact workplace culture by shaping behaviors, fostering collaboration, and guiding ethical decision-making. A strong alignment between an organization's values and its culture promotes employee engagement, enhances job satisfaction, and reduces turnover rates. When

leaders embody core values, it encourages employees to adopt similar behaviors, creating a cohesive environment. Additionally, a positive culture nurtures inclusivity and respect, which are essential for team dynamics and overall organizational success. Ultimately, a culture rooted in human values enables organizations to thrive and adapt to changing workplace needs.

HOW CAN LEADERSHIP EMBODY AND PROMOTE MORAL VALUE & HUMAN VALUES IN THE WORKPLACE:

Embodying Moral Value & Human Values as a Leader. Leaders can embody and promote human values in the workplace by:

- **Demonstrating integrity:** through consistent alignment of words, values and actions]. his builds trust and credibility.
- **Practicing honesty and transparency:** in communication, providing accurate information and encouraging open dialogue.
- **Showing genuine empathy and concern**: for employees' well-being, adapting communication styles to individual needs.
- Leading by example: and setting a positive tone through their own behaviors and attitudes.

PROMOTING MORAL VALUE & HUMAN VALUES IN THE CULTURE:

- To promote human values throughout the organization, leaders should:
- Ensure policies and processes reinforce ethical behavior and accountability:
- Reward and recognize employees: who demonstrate desired values like integrity and empathy.
- Create a psychologically safe environment: where employees feel comfortable taking risks and voicing concerns without fear of punishment.
- Communicate the importance of values: regularly, inviting feedback on how they impact work.

VI. CONCLUSION & SUGGESTIONS:

Professional ethics and moral values are considered as an important concept for all the people, all the people of the society who are involved in any way in the field of higher education should follow it completely in terms of professional conduct and their responsibility. Professional ethics should be developed gradually by a person after considering his problem. Professional ethics should be followed in analyzing the professional aspect of the same as higher education. Scholars and experts have to analyze with understanding the procedural background of the research that is to be dealt with. The teachings should be provided with the ethical concept of the profession under which the teachers and students have to behave and analyze it. The main purpose of the research is to analyze the professional conduct of the professor, which is very important and also to arrive at the appropriate measure after considering the part of the research.

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NATIONAL EDUCATION POLICY 2020: OPPORTUNITIES AND CHALLENGES TO LEGAL EDUCATION

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ABSTRACT

The National Education Policy (NEP) 2020 has something to "take" from every area of higher learning, including the arts, social sciences, physics, technology, law, and all other types of education (general, pro-fessional, and technical). A reference to legal education inside the framework of higher education is a first for the National Education Policy. According to Policy 2020, all independent universities, including Na-tional Law Universities, are required to transform into interdisciplinary institutions. All institutions that offer general or professional education will naturally seek to become institutions that offer both fluid and integrated education by the year 2030. The Policy called for the abolition of the affiliation system and the transformation of affiliated colleges into either constituent institution of the university under the direct management and control of the university or autonomous multidisciplinary degree-granting institutions, or for a small number of affiliated colleges to be bundled together through mergers and acquisitions and then converted into either autonomous colleges or universities. There will be a unified regulatory framework for all types of education under the NEP 2020, with the exception of legal and medical education. The Pol-icy did not, however, name or establish a separate authority to oversee law and medicine. A professional body for practising advocates was solely established by the Advocates Act, whereas the National Medical Commission (NMC) was established to regulate medical education; the Bar Council of India (BCI) was established for the same purpose (Bar Council of India and States). Every type of education, including ac-ademic, professional, and clinical skill learning, as well as all levels of legal education (undergraduate, postgraduate, and research studies), must adhere to the NEP 2020 if the BCI is to fulfil its regulatory role in the field. Assuming the NEP 2020 deadline is final and the NEP mandates a new educational model, BCI must prioritise the necessary steps and demonstrate how these changes can be implemented at all levels within the given timeframe.

Keywords: *Education; NEP; National Education policy; Law; Legal Education; BCI*

I. INTRODUCTION

All levels of the country's educational system, from pre-primary to post-doctoral research, are slated to undergo radical transformation under the National Education Policy 2020 (NEP2020, or the Policy)[3]. This includes technology education, professional education, vocational education, and general education. In the next ten to twenty years, the admirable objective is to make India's education system the first bench in a worldwide classroom. In its call for a complete reform of the nation's educational system, the Policy restated the "often spoken" points made by earlier iterations of

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[3]*The National Education Policy, 2020, available at https://www.education.gov.in, visited on 6 November 2024.*

the Education and Technology Committees. If such a thorough overhaul of legal education, including professional legal education, is needed to be completed within the parameters of NEP 2020 and on time, what should the authorities in the legal profes-sion do? Since the British model was introduced to India, the institutional framework of higher education has stayed virtually unchanged for nearly 150 years. University-affiliated colleges conducted undergradu-ate studies, whereas universities conducted graduate and research studies. All universities were required to be multidisciplinary and the affiliation system was to be abolished according to the NEP 2020. The planned reorganisation plan must be completed by 2030[4]. Due to its delivery through higher education in-stitutions and its inclusion in general education, professional legal education is likewise expected to be significantly affected by the restructuring of higher education institutions. In order to show how these re-forms will be executed in a scheduled manner, this article will look at four reform timetables. The follow-ing were all parts of the planned all-encompassing reform in the National Policy:

(a) a new regulatory framework under a single umbrella organisation;

(b) structural reforms to the higher education delivery system;

(c) content reforms to make academic courses more multidisciplinary; and

(d) rethinking the purpose of higher education and reforming the teaching-learning methodology and process.

The goal is unachievable because no work schedule or deadline has been established. The only re-quirements are that the assignment's final report be completed by 2030, the ultimate conclusion by 2035, and its reporting in the review report by 2040.

2. Common Framework for Regulation

2.1. A Single Regulatory System

"For decades, higher education regulation has been excessively heavy-handed; much too much has been attempted to be regulated with far too little benefit," the policy accurately acknowledged. A number of fundamental problems, such as a significant concentration of authority in a few institutions, conflicts of interest among these agencies, and an accompanying lack of accountability, have been exacerbated by the regulatory system's mechanistic and disempowering nature. To "re-energise and sustain the higher educa-tion industry," the regulatory structure needs to undergo a fundamental redesign. Some have advocated for a more unified higher education system in India, with the proposed Higher Education Commission of India (HECI)[5] overseeing accreditation, grant distribution, regulation, and academic norm setting. Each of these four responsibilities will be handled by its own separate vertical within the Commission. These organisa-tions include the General Education Council (GEC), the Higher Education Grants Council (HEGC), the National Assessment and Accreditation Council (NAAC), and the National Higher Education Regulatory Council (NHERC), which oversees regulatory matters.

2.2. Legal and Medical Education have been Excluded

The "single point regulator for higher education,

[4] *Id. at 5,22, 5,23, 23.*
[5] *Id. at 18.2, 47.*

including teacher education" only applies to legal and medical programs[6]. The inclusion of law and medical education in the HECI is a topic of some dis-cussion. Paragraph 18.3 of the NEP[7], that established the NHERC, indicates the exception for law and medicine education, which is why this is the case. Therefore, it is clear that NHERC does not have author-ity over medical or legal education. But this NHERC would oversee all other forms of education as well, including teacher preparation, technical, vocational, professional, and general education. The creation of a "single umbrella institution" in the name of the HECI is not mentioned in paragraph 18.2 as being excluded from law or medicine. In a similar vein, neither the NAAC nor the HEGC make any mention of these two illustrious professional education programs being excluded from accreditation or funding. On the other hand, the GEC has promised to include all relevant professional councils, including the Agricultural Council (ICAR), the Veterinary Council (VCI), the National Council for Teacher Education, the Council of Architecture, and the National Council for Vocational Education (NCVET), all of which will play an im-portant role. Careful omissions have been made from the list of organisations including the BCI and the Indian Medical Commission. The same holds true for the Dental Council, the Nursing Council, the Phar-macy Council, and any other relevant professional bodies in the health sector. Similarly, NEP 2020 was not shy about criticising these councils. These professional organisations will be overseen by the Medical Commission, although their respective councils will have some autonomy in how they operate. But that is not the point of this essay. Compared to professional legal education, the scope of legal education is far more expansive. Education in the legal fields, whether at the undergraduate, graduate, or research level, must remain outside the regulatory purview of both NHERC and GEC since NEP states that the single reg-ulatory council, NHERC, must exclude legal education. We go into further into about the many challenges that this sort of exclusionary clause will face.

3. Structural Reforms

3.1. Structural Change in Educational Institutions

With 54 central universities, 444 state universities, 126 deemed universities, and 403 private univer-sities serving the higher education system in 2021, we maintain that no such thing as a private university exists because a university is a public institution established by statute that may be sponsored by either the state or a private enterprise. Affiliating universities make up the vast majority of the 444 state institutions, including some that were renamed central universities[8]. One of the biggest networks of higher education in the country was comprised of over 42,000 colleges and universities in 2019. The Yashpal Committee found that universities have failed to adequately fund undergraduate programs while keeping their affilia-tions with affiliated institutions without adequately ensuring quality control and upholding standards, which has led to a decline in educational quality. University officials did not take into account any of the UGC's standards. There has been complete and total disregard for undergraduate studies, the foundation of higher education, with no attempts to modernise and reform the curriculum and

[6] *Id. at 46.*
[7] *Id.*
[8] *Available at https://www.ugc.ac.in/ (accessed on 6 November 2024).*

even less supervision of affiliated colleges and quality control at the undergraduate level. In 2017, professional legal education was offered by 306 universities (central, state, private, and regarded to be) and 1,376 colleges of state universi-ties (affiliated, government and privately owned). There might be more than 2,000 institutions in total by the time this piece comes out. Of these institutions, 23 are designated as national law universities. The goal of creating an exclusive university in some states—like Tamil Nadu and Karnataka—is to merge all of the affiliated colleges into one law school. Abolition of the affiliation system and restructuring of uni-versities were two of the many recommendations made by NEP 2020. This once-great chain of higher ed-ucation institutions must now be dismantled due to the affiliated universities' utter disregard for the un-dergraduate program. Since universities are not allowed to join with institutions that offer general legal education, it follows that all linked law colleges must either reform or close. Ultimately, the goal of the NEP was to have each university take charge of its undergraduate programs.

3.2. Restructuring of Legal Educational Institutions

The following is a typological classification of legal education institutions as defined by the Legal Education Rules, 2008: Centres for Legal Education (CLE).

1. twenty-three independent national law schools; plus a small number of private institutions, namely Global Law University;

2. Law schools that are part of the university's faculty, like Delhi Law School;

3. Law schools that are specifically authorised by the state to affiliate with other colleges, like Kar-nataka Law University;

4. Colleges that are affiliated with law schools

The remaining 1,376 institutions were either associated colleges funded by state governments or pri-vate management, with 306 being CLE from 1 to 3.

3.3. Restructuring Independent National Law Schools/Other Private Law Schools

"Aspire to become interdisciplinary institutions that pro-vide holistic and multidisciplinary educa-tion" is the goal that each National Law University (NLU) should endeavour to achieve. In order to "inte-grate seamlessly by 2030," NLUs will have to naturally transform into multidisciplinary institutions that provide general and professional education. The National Education Policy 2020 argues for the gradual demise of single-stream higher education institutions in favour of expanding multidisciplinary programs. The NLUs can achieve this goal in one of two ways: (a) by creating additional fields of study, self-developing, and expanding into other general and technical disciplines that grant degrees in a variety of disciplines with an emphasis on legal education; or (b) by acquiring and taking over some well-established affiliated colleges of other Universities that offer courses in other disciplines. It stands to reason that such a university might provide classes through out-reach facilities and have more than one physical site. In order to facilitate and encourage top-notch multidisciplinary and cross-disciplinary teach-ing and research across disciplines, NLUs must transform into thriving interdisciplinary institutions. Aiming to cultivate individuals with critical twenty-first-century capacities in areas spanning the arts, hu-manities, languages, sciences, social sciences, and professional, technical, and vocational domains; an ethic of social engagement; soft skills like communication, debate, and discussion;

and rigorous speciali-sation in a chosen field or fields are all aspects of education that the Policy elaborates upon in relation to the multidisciplinary nature of education[9].

In order to increase their capacity to offer a variety of academic programs in the liberal arts, social sciences, evidential sciences, and technology, NLUs must construct multidisciplinary academic structure requirements. In order to develop the knowledge and abilities required for the gathering, compiling, collaborating, and systemic presentation of evidence in a specific case, evidence-based legal education must place a strong emphasis on "matters of fact." Conversely, being well-versed in the law allows for the ap-plication of that law to the aforementioned fact pattern with clinical precision. As a science that seeks to "illuminate numerous Constitutional and so-cietal principles in order to define ethical norms and ensure social, economic, and political fairness," law is likewise dependent on values. NLUs must therefore have strong academic and research programs in a variety of disciplines and faculties. In order to offer the varie-ty of courses required by a developing society, each of these departments' faculties must be strong enough. The flagship course in law will continue to be the principal focus, although it may develop any general or specialised program and any degree.

Despite being multidisciplinary institutions, NLUs are now required to do highly specialised research on general professional education and integrate multidisciplinary and technical research. As the preemi-nent research universities in their respective regions, these NLUs are required to establish a variety of re-search centres that draw from indigenous knowledge and local social, economic, and environmental fac-tors. For the faculties of the state's multidisciplinary academic institutions, these NLUs are required to take the lead in faculty development and training in general, multidisciplinary specialised legal programs. A part of the initiative that will change the game is this. The other sort of institutional change required in NLUs is the progressive transformation of these institutions into research-intensive universities through the development of multidisciplinary research in a variety of areas, with a special emphasis on social, economic, and political justice. It is important to note that research is a relatively recent topic in multidisciplinary legal study in a variety of institutional disciplines of economic law, including banking, insurance, and application-oriented taxation and fiscal law. It is currently possible to manually number research institutes in fields such as criminal administration of justice, human rights law, and forensic evidential law. Because forensic science studies necessitate expert knowledge and the purchase of expensive labora-tory equipment, not a single law school has ever tried to launch one. Legislation pertaining to deci-sion-making processes is rarely the subject of critical examination. In order to project its scope and devel-opment, NLUs must produce a significant amount of legal research. Nonetheless, the nation's public policy could benefit from such expanded forms of study conducted by research institutions. The role of law in the application of artificial intelligence, robotics, or experimental innovations in professional legal education integrated with other fields of knowledge should be emphasised by these research-intensive universities, which must also offer high-quality instruction in emerging fields of

[9] *Supra note 1.*

knowledge. "Implement best practises and embrace new technology in order to increase access to and timely delivery of justice" is the goal.

3.4. University Faculty Law Schools

There is a Law Faculty, School, or Department of Law in several public and central universities. As a multidisciplinary research or teaching-based institution, universities are free to change their policies re-garding school restructuring. The focus will be on research and development in a school that is based on research, but teaching programmes will also be offered. These programmes will be based on professional legal education of the highest calibre. But faculty members are strongly encouraged to do their own re-search and work on projects with students. In the case of an affiliating university, the capacity of the affil-iating university determines whether or not it can assume responsibility for certain affiliated colleges as constituent colleges or outreach centres. The university has affiliated colleges that are well-organised and standardised; some of these institutions may become constituent colleges or outreach education centres.

3.5. Affiliating State Universities

States like Karnataka or Tamil Nadu, which have an affiliated university that houses all the affiliated law colleges in the state, are required to reorganise in the following ways: (a) create a university school at the university (if not already there) and/or link one or two law colleges as constituent or outreach centres based on academic quality; (b) designate a small number of strong law colleges as autonomous de-gree-granting colleges that will eventually become universities; (c) group similar law colleges together by district through mergers or amalgamations; then transform these institutions into autonomous colleges that confer degrees and, eventually, universities that teach a wide range of disciplines. At least three thousand pupils are required to enrol in each of these groups. Resolving several conflicts of academic, financial, and extra-academic interests would be an enormous challenge for the work at hand.

3.6. Affiliated Colleges

Other affiliated law colleges of various state universities may, depending on their enrolment strength, size, and growth of assets, be declared self-governing and degree-granting multidisciplinary law colleges or may be converted into separate autonomous universities through merger and acquisition and the for-mation of merged Boards of Management. It may be easier to transform into an autonomous mul-ti-disciplinary college or university if general, technical, and professional institutions are grouped togeth-er. A minimum of 3,000 students must be enrolled at each of these multidisciplinary universities. These clusters of institutions will either be established as autonomous degree-granting colleges and subsequently converted into multidisciplinary universities based on academic excellence and performance evaluation, or they will be established as multidisciplinary universities from the start. While grouping affiliated colleges, professional law colleges may also be grouped with general and technical colleges, allowing for the or-ganic growth of each group of colleges into a multidisciplinary university or, alternatively, into autono-mous colleges with a focus on teaching before becoming multidisciplinary universities.

Furthermore, it needs to be stressed that this change cannot be made overnight. What follows is a synopsis of the process as laid out in the Policy. A transparent system of graded accreditation will be used to develop

a phased procedure for providing institutions graded autonomy. For gradually attaining the minimal certification standards for each level of accreditation, colleges will be encouraged, mentored, supported, and awarded. The policy statement highlighted the importance of the task. If BCI is the govern-ing body for legal education, then it is its duty to establish the procedures for granting authority to each affiliated university and then guiding, monitoring, and providing support services to those universities. In order to put colleges (or clusters of colleges) on the road to gaining autonomy, BCI must plan how it will work with affiliated institutions. A tiered system of accreditation will be put in place to gradually phase out the affiliation system. It may be necessary for BCI to create its own autonomous accreditation body. Grades for all affiliated colleges will be given priority by the accreditation board, so that linked colleges can gradually fade out. In this respect, it may, nevertheless, approach NAAC for assistance. By 2030, the number of degree-granting institutions in the nation will be limited to autonomous multidisciplinary col-leges and public or private interdisciplinary universities. When it comes to American universities, this is the gold standard. Colleges and universities under this system are required to spend a lot of effort on qual-ity control and standardisation.

4. Curriculum Restructuring

4.1. Significant Issues Confronting Contemporary Legal Education

The following major problems with legal education were identified by NEP 2020:

1. The fragmentation of legal education due to early specialisation;
2. A lack of development of cognitive skills for applying learning outcomes to solve societal problems;
3. A weakening of evidence-based legal education due to avoidance of domain knowledge and technologies;
4. In economically depressed places, there is a lack of comprehensive legal education based on local requirements;
5. Institutional and teacher autonomy are severely limited;
6. Low levels of education due to large affiliated universities;
7. A low-quality or non-existent system of regulation;
8. Affiliated law schools' inadequate district and local infrastructure;
9. A lack of connection between professional legal education and the local language.

4.2. Curriculum Reform

The undergraduate curriculum needs to cover enough ground to meet NEP2020 requirements. It has been stated that "evaluation of integrated approaches in undergraduate education that integrate the humanities and arts with STEM has consistently demonstrated beneficial learning outcomes, including enhanced creativity and innovation." According to legal studies, students who study a variety of subjects, including history, politics, economics, philosophy, psychology, logic, sociology, computer applications, and mathematics, in addition to languages, improve their capacity for higher-order thinking, problem-solving, teamwork, and communication. It's helpful to have some working knowledge of the principles of science. The implementation of specialised courses at the undergraduate level creates silos for knowledge and idea generation, as pointed out by NEP2020, and makes

the application of knowledge narrow-minded. 'Curricu-la for legal studies must reflect sociocultural realities appropriately and adequately, as well as the history of legal thinking, the principle of justice, the practice of jurisprudence, and other relevant subjects,' the NEP 2020 plainly stated. An integrative and multidisciplinary approach is essential for law school curric-ula. The Policy mandates that "all schools of-fering professional or general education will strive to organ-ically evolve into institutions...offering both seamlessly and integrated" as was previously stated. Legal education programs should prioritise the integration of technology to enhance justice delivery, both in terms of accessibility and timeliness.

5. Conclusion

Many academics think that NEP 2020 has made it easier for private companies to enter the education sector directly through corporate actions like mergers, takeovers, and acquisitions of small, affiliated col-leges in order to consolidate them and run an independent degree-granting college or university. When the government has identified education as a greenfield industry with the aim of attracting private investment, the state may offer support to start-ups. Small private organisations run most affiliated colleges, particu-larly law schools, with the exception of a few large ones that originated as religious projects. Consequent-ly, it's safe to assume that people will support educational investments made by large private industrial houses. On the topic of transforming education into a trade-related service, those who have long been vo-cal advocates of state initiatives and who sit on the left of the economic spectrum have suddenly gone mute! Higher education in India has seen substantial investment from organised, large industrial and commercial businesses thanks to the country's improved educational system in recent years. Developing amenities for affiliated persons was not one of NEP's stated goals; rather, it was to disentangle such or-ganisations from the pursuit of profit. That is a whole separate matter. There is no place for this kind of discourse here. In such a case, the BCI is quite limited in its ability to step in. Our aim here is to propose some actions that BCI can take in response to the challenges raised by the NEP 2020's policy statements, both those that are overtly stated and those that require interpretation.

teachers and students have to behave and analyze it. The main purpose of the research is to analyze the professional conduct of the professor, which is very important and also to arrive at the appropriate measure after considering the part of the research.

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कानूनी व्यवसाय में कानूनी नैतिकता और व्यावसायिक जिम्मेदारी: एक विश्लेषण

डॉ योगेश कुमार गुप्ता
प्रोफेसर, आई.पी.इ.एम लॉ एकेडेमी,
गाज़ियाबाद

सार/ABSTRACT

यह लेख कानूनी व्यवसाय में कानूनी नैतिकता और व्यवसायिक जिम्मेदारी के महत्वपूर्ण विषय पर प्रकाश डालता है, न्याय और सामाजिक विश्वास को बनाए रखने में कानूनी व्यवसाय से जुड़े लोगो की भूमिका पर जोर देता है। कानूनी नैतिकता वकीलों को व्यावसायिकता, अखंडता और क्षमता बनाए रखने के लिए एक व्यापक ढांचा प्रदान करती है। अखंडता के लिए ईमानदारी और पारदर्शिता की आवश्यकता होती है, जबकि सक्षमता के लिए निरंतर सीखने की आवश्यकता होती है ताकि विकसित कानूनी परिदृश्यों को नेविगेट किया जा सके। वकीलों का यह भी कर्तव्य है कि वे अपने क्लाइंट की गोपनीयता बनाए रखें और व्यक्तिगत हितों के टकराव से बचें। व्यवसायिक जिम्मेदारी व्यक्तिगत मामलों से आगे बढ़कर क्लाइंट, अदालतों और समाज के प्रति उत्तरदायित्वों को शामिल करती है। वकीलों को अपने क्लाइंट के सर्वोत्तम हितों में काम करना चाहिए और कानूनी प्रणाली की अखंडता को बनाए रखना चाहिए। इसके अतिरिक्त, वे न्याय और कानून के शासन तक पहुँच को बढ़ावा देने में भूमिका निभाते हैं। प्रौद्योगिकी, वैश्वीकरण और बदलते सामाजिक मानदंडों द्वारा लाई गई चुनौतियों के लिए वकीलों को मूल नैतिक मूल्यों को संरक्षित करते हुए अनुकूलन करने की आवश्यकता होती है। नैतिक मानकों और पेशेवर जिम्मेदारियों का पालन सुनिश्चित करने के लिए निरंतर शिक्षा और मजबूत नियामक ढांचे बहुत महत्वपूर्ण हैं। न्याय और सामाजिक विश्वास की रक्षा में इसकी निरंतर भूमिका के लिए कानूनी पेशे की इन सिद्धांतों को विकसित करने और बनाए रखने की क्षमता महत्वपूर्ण है।

कीवर्ड - कानून, नैतिकता, जिम्मेदारी, व्यवसाय, अदालत, समाज

I. भूमिका/INTRODUCTION

1. आज कानूनी पेशा समाज में एक महत्वपूर्ण भूमिका निभाता है, जिसे न्याय को बनाए रखने, अधिकारों की रक्षा करने और कानून के शासन को बनाए रखने के अति आवश्यक कर्तव्य के साथ काम सौंपा गया है। इस महान कार्य और प्रयास के केंद्र में कानूनी नैतिकता और पेशेवर जिम्मेदारी के सिद्धांत हैं, जो वकीलों और कानूनी चिकित्सकों के लिए नैतिक कम्पास के रूप में काम करते हैं। ये सिद्धांत उनके आचरण और निर्णय लेने की प्रक्रियाओं का मार्गदर्शन करते हैं, यह सुनिश्चित करते हुए कि वे न्याय और निष्पक्षता के व्यापक सिद्धांतों को बनाए रखते हुए अपने क्लाइंटस (व्यवहारी) के हितों की सेवा करते हैं। कानूनी नैतिकता की मांग है कि वकील अपने ग्राहकों के प्रति ईमानदारी, ईमानदारी और वफादारी के साथ काम करें। उन्हें कानूनी गोपनीयता भी बनाए रखनी चाहिए और आपसी और व्यक्तिगत हितों के टकराव से बचना चाहिए। इसके अतिरिक्त, वे कानून की सीमाओं के भीतर अपने ग्राहकों का उत्साहपूर्वक प्रतिनिधित्व करने के लिए बाध्य हैं। इन सिद्धांतों का पालन करने पर, एक न्यायपूर्ण और भरोसेमंद कानूनी प्रणाली में योगदान मिलता है। कानूनी क्षेत्र में पेशेवर जिम्मेदारी व्यक्तिगत कार्यों से परे है। इसमें कानूनी प्रणाली में जनता के विश्वास को बढ़ावा देने, पारदर्शिता और निष्पक्षता को बढ़ावा देने का सामूहिक कर्तव्य शामिल है। अंततः, सामाजिक विश्वास बनाए रखने और न्याय की खोज के लिए कानूनी नैतिकता और व्यावसायिक जिम्मेदारी के प्रति दृढ़ प्रतिबद्धता आवश्यक है। अपने मुवक्किलों (व्यवहारी) के मामलों को प्रभावी ढंग से संभालने के लिए ज्ञान, कौशल और संसाधनों की आवश्यकता होती है। वकीलों को भी अपने ज्ञान और कौशल को लगातार अपडेट करना

चाहिए ताकि वे बदलते कानूनी परिदृश्यों के अनुकूल हो सकें और अपने मुवक्किलों के लिए सर्वोत्तम संभव परिणाम सुनिश्चित कर सकें। व्यावसायिक नैतिकता सिर्फ़ उस तरीके या आचरण या तरीके के बारे में है जिससे हम अपने कार्य या काम करते हैं। व्यावसायिक पहलू, यह हम पर निर्भर करता है कि हम कैसे काम करना चाहते हैं, चाहे हम सही तरीका चुनें या गलत। मुख्य उद्देश्य कानूनी शिक्षाविदों की उचित नैतिकता और एक शिक्षाविद के रूप में काम पर उनकी ज़िम्मेदारी का विश्लेषण करना है।

2. अध्ययन का उद्देश्य (OBJECTIVE OF STUDY)

शोध का मुख्य उद्देश्य वकालत के व्यवसाय का बारीकी से विश्लेषण करना है, वकीलों की पेशेवर नैतिकता और शिक्षाविदों की कानूनी जिम्मेदारियाँ और उनके पीछे कानूनी कर्तव्य। शोध का दूसरा उद्देश्य उनके कानूनी पेशेवर आचरण का विश्लेषण करना है। शोध का तीसरा उद्देश्य उनके पीछे की कानूनी पृष्ठभूमि को समझना है।

3. साहित्यिक समीक्षा (REVIEW OF LITERATURE)

- वेबस्टर डिक्शनरी के अनुसार "पेशेवर नैतिकता देश का कानूनी सदस्य बनने के लिए आवश्यक है। एक नैतिक व्यक्ति की कानूनी स्थिति को पेशेवर पहलू के महत्वपूर्ण पहलुओं की विशिष्ट स्थिति के साथ संरक्षित किया जाना चाहिए। वकील के कानूनी रोजगार में मुख्य रूप से पेशेवर पहलू का पालन किया जाता है जिसे आवश्यक माना जाता है।" (ब्रूक्स और डन 2017) .
- ब्लूमराड के अनुसार "पेशेवर अधिकार केवल एक पूर्ण कार्य नहीं है, बल्कि अधिवक्ता के लिए कुछ निश्चित अधिकार हैं जिनका पालन अधिवक्ताओं को करना चाहिए और संभावित परिस्थितियों में उन्हें ध्यान में रखना चाहिए।" (क्रैन्सटन 1996).
- वोएट के अनुसार" व्यावसायिक नैतिकता भागीदारी के माध्यम से एक नैतिक व्यक्ति मौजूदा मामले पर अपने अधिकार का प्रयोग करता है, और विभिन्न तरीकों से जिसे किसी विशेष मामले और वैचारिक पृष्ठभूमि पर वकीलों द्वारा निपटाया जाना है।" (नैतिकता और नैतिकता बोर्ड 2002).
- बोस्नियाक के अनुसार "समुदाय सामाजिक सामंजस्य की आवश्यकता के रूप में इस तरह के बहिष्कार को उचित ठहराते हैं जो इस सवाल को जन्म देता है कि वर्तमान समाजों के लिए किस तरह के सामाजिक सामंजस्य की आवश्यकता है, माना जाता है कि पेशेवर नैतिकता पक्षों के कानूनी पेशे के आचरण के साथ मिलती है।" (थॉर्नटन 1996).

4. अनुसंधान क्रियाविधि

(RESEARCH METHODOLOGY)

अध्ययन में केस स्टडी और नृवंशविज्ञान संबंधी अवलोकन शामिल होंगे। यह शोध द्वितीयक स्रोतों का उपयोग करता है, जिसमें दूसरों द्वारा पहले से प्राप्त और प्रकाशित जानकारी एकत्र करना शामिल है। इस प्रक्रिया के दौरान, कानूनी व्यवसाय और उसमें नैतिकता, जिम्मेदारी से संबंधित साहित्य, पुस्तकें, अकादमिक पत्र, पत्रिकाएँ, सरकारी प्रकाशन, सांख्यिकीय डेटाबेस, बाज़ार अनुसंधान रिपोर्ट और पहले के शोध अध्ययनों जैसे प्रतिष्ठित स्रोतों से जानकारी एकत्र की जाती है। शोध पद्धति एक सुव्यवस्थित और कुशल शोध प्रक्रिया का एक आवश्यक घटक है, जो अध्ययन के निष्कर्षों की वैधता, विश्वसनीयता और नैतिक अखंडता की गारंटी देता है।

5. कानूनी नैतिकता और व्यावसायिक जिम्मेदारी की परिभाषा (DEFINITION OF LEGAL ETHICS & PROFESSIONAL RESPONSIBILITY)

5.1 कानूनी नैतिकता (Legal Ethics)

कानूनी नैतिकता कानूनी पेशे की आधारशिला है, जो कानूनी चिकित्सकों के आचरण को विनियमित करने वाले सिद्धांतों और दिशानिर्देशों का एक व्यापक ढांचा प्रदान करती है। इन सिद्धांतों को कानूनी समुदाय के भीतर व्यावसायिकता, अखंडता और क्षमता के उच्चतम मानकों को बनाए रखने के लिए डिज़ाइन किया गया है। व्यावसायिकता कानूनी नैतिकता का एक मूलभूत पहलू है। इसके लिए वकीलों को परिश्रम, शिष्टता और कानूनी प्रणाली के प्रति सम्मान के साथ काम करना चाहिए। उन्हें पेशे के नियमों और मानदंडों का पालन करते हुए अपने ग्राहकों के सर्वोत्तम हितों की सेवा करने के लिए प्रतिबद्धता प्रदर्शित करनी चाहिए। व्यावसायिकता में कानूनी मामलों में शामिल सभी पक्षों के साथ निष्पक्षता और शिष्टाचार के साथ व्यवहार करना, विश्वास और सहयोग का माहौल बनाना शामिल है। ईमानदारी कानूनी नैतिकता का एक और महत्वपूर्ण आयाम है। वकीलों से अपेक्षा की जाती है कि वे अपने ग्राहकों, सहकर्मियों और अदालत के साथ अपने व्यवहार में ईमानदार, सच्चे और पारदर्शी रहें। उन्हें किसी भी तरह के धोखे,

धोखाधड़ी या गलत बयानी से बचना चाहिए, क्योंकि ये कार्य कानूनी प्रणाली की विश्वसनीयता को कम कर सकते हैं। कानूनी नैतिकता में सक्षमता भी उतनी ही महत्वपूर्ण है। वकीलों का कर्तव्य है कि वे अपने क्लाइंट्स को सक्षम प्रतिनिधित्व प्रदान करें। इसमें अपने मुवक्किलों के मामलों को प्रभावी ढंग से संभालने के लिए आवश्यक कानूनी ज्ञान, कौशल और संसाधनों का उपयोग करना शामिल है। वकीलों को भी अपने ज्ञान और कौशल को लगातार अपडेट करना चाहिए ताकि वे बदलते कानूनी परिदृश्यों के अनुकूल बन सकें और अपने मुवक्किलों के लिए सर्वोत्तम संभव परिणाम सुनिश्चित कर सकें।

5.2 व्यावसायिक जिम्मेदारी (Professional Responsibility)

समाज में पेशेवर या व्यावसायिक जिम्मेदारी कानूनी पेशे की आधारशिला है, जिसमें कानूनी व्यवसायियों के बहुमुखी दायित्व और कर्तव्य शामिल हैं, जो उनके मुवक्किलों, अदालतों और पूरे समाज सहित विभिन्न हितधारकों के प्रति होते हैं। इसके मूल में, पेशेवर जिम्मेदारी कानून के अभ्यास में जवाबदेही और नैतिक मानकों के प्रति अटूट पालन के महत्व को रेखांकित करती है। पेशेवर जिम्मेदारी के प्राथमिक पहलुओं में से एक है वकीलों का अपने मुवक्किलों के प्रति भरोसेमंद कर्तव्य। वकीलों को अपने मुवक्किलों के सर्वोत्तम हित में कार्य करने, गोपनीयता बनाए रखते हुए मेहनती और सक्षम प्रतिनिधित्व प्रदान करने के लिए बाध्य किया जाता है। यह कर्तव्य ग्राहकों द्वारा अपने कानूनी सलाहकार पर रखे गए भरोसे को दर्शाता है और एक न्यायपूर्ण कानूनी प्रणाली के कामकाज के लिए आवश्यक है। इसके अलावा, कानूनी व्यवसायी अदालतों की अखंडता और विश्वसनीयता को बनाए रखने के लिए जिम्मेदार हैं। उन्हें अदालत के नियमों और प्रक्रियाओं का पालन करना चाहिए, सच्ची और सटीक जानकारी पेश करनी चाहिए और ऐसे किसी भी आचरण से बचना चाहिए जो न्याय के प्रशासन को कमजोर कर सकता है। अदालत की अखंडता के प्रति यह प्रतिबद्धता कानूनी कार्यवाही की निष्पक्षता और प्रभावकारिता सुनिश्चित करती है।

पेशेवर जिम्मेदारी व्यक्तिगत मामलों से परे है; और यह वकीलों के व्यापक सामाजिक दायित्वों से भी संबंधित है। कानूनी पेशेवरों का कर्तव्य है कि वे कानून के शासन, न्याय तक पहुंच और कानूनी प्रणाली में जनता के विश्वास को बढ़ावा दें। उनसे अपेक्षा की जाती है कि वे निशुल्क काम करें, या उचित शुल्क ले , कानूनी शिक्षा और सुधार प्रयासों में भाग लें और पेशे की प्रतिष्ठा बनाए रखने के लिए उच्चतम नैतिक मानकों को बनाए रखें।

6. कानूनी व्यवसाय में कानूनी नैतिकता और व्यावसायिक जिम्मेदारी के मुख्य सिद्धांत (The Main Principles Of Legal Ethics And Professional Responsibility In The Legal Profession)

6 . 1 गोपनीयता: गोपनीयता का सिद्धांत वकील- क्लाइंट (व्यवहारी) संबंध का केवल एक आधारभूत पहलू नहीं है; यह इसका जीवन-रक्त है, जो विश्वास के माहौल को बढ़ावा देता है जो कानूनी प्रणाली की प्रभावशीलता के लिए अपरिहार्य है। वकीलों को अपने क्लाइंट्स द्वारा साझा की गई जानकारी की सुरक्षा करने का काम सौंपा जाता है, यह एक ऐसा कर्तव्य है जिसे कभी भी हल्के में नहीं लिया जा सकता है। गोपनीयता को बनाए रखने का यह दायित्व वकील- क्लाइंट्स संबंध की समाप्ति से कहीं आगे तक फैला हुआ है, जो कानूनी चिकित्सकों में रखे गए विश्वास की पवित्रता सुनिश्चित करने के लिए अनिश्चित काल तक बना रहता है।

गोपनीयता सिद्धांत यह अनिवार्य करता है कि वकील सभी क्लाइंट संचार को निजी रखें, क्लाइंट से विशिष्ट जानकारी का खुलासा करने के लिए स्पष्ट सहमति को छोड़कर वः किसी से भी साझा नहीं करेगा । यह व्यापक कर्तव्य न केवल मौखिक और लिखित संचार को शामिल करता है, बल्कि स्रोत की परवाह किए बिना पेशेवर संबंध के दौरान प्राप्त की गई कोई भी जानकारी भी शामिल करता है। इस गोपनीयता उद्देश्य क्लाइंट को कानूनी प्रतिनिधियों के सामने अपने खुलासे में स्पष्ट और व्यापक होने के लिए प्रोत्साहित करना है, बिना प्रतिशोध के डर या इस चिंता के कि उनकी संवेदनशील जानकारी अनधिकृत पक्षों के सामने आ सकती है।

इसके अलावा, गोपनीयता का सिद्धांत एक सुरक्षात्मक बाधा के रूप में कार्य करता है, जिससे मुवक्किल अपने वकीलों के साथ खुलकर और ईमानदारी से जुड़ सकते हैं। वकीलों के लिए यह खुलापन महत्वपूर्ण है ताकि वे सभी आवश्यक जानकारी एकत्र कर सकें जो किसी मामले या कानूनी मामले के परिणाम को प्रभावित कर सकती है। यह सुनिश्चित करके कि मुवक्किल बिना किसी झिझक और बाधा के बोल सकते हैं, वकील प्रभावी प्रतिनिधित्व प्रदान करने, अधिक कुशलता से रणनीति बनाने और उनकी ओर से

अधिक दृढ़ता से वकालत करने के लिए बेहतर ढंग से सुसज्जित हैं। हालाँकि, गोपनीयता का सिद्धांत निरपेक्ष नहीं है। अपवादों को सावधानीपूर्वक चित्रित किया गया है, जैसे कि परिदृश्य जहाँ प्रकटीकरण कानूनी रूप से अनिवार्य है या जहाँ जानकारी को रोकना दूसरों को नुकसान पहुँचा सकता है। इन अपवादों को संकीर्ण रूप से समझा जाता है, यह सुनिश्चित करते हुए कि सामाजिक और कानूनी दायित्वों को संतुलित करते हुए सिद्धांत की अखंडता को बरकरार रखा जाए। व्यवहार में, गोपनीयता के रखरखाव के लिए कानूनी चिकित्सकों द्वारा परिश्रमी प्रयासों की आवश्यकता होती है। इसमें कड़े डेटा सुरक्षा उपायों को लागू करना, कानूनी टीम के सभी सदस्यों को उनकी गोपनीयता दायित्वों के बारे में शिक्षित करना और अनजाने में प्रकटीकरण से बचने के लिए गोपनीयता प्रोटोकॉल का लगातार पुनर्मूल्यांकन करना शामिल है। अंततः, गोपनीयता का सिद्धांत समाज में वकीलों की अद्वितीय भूमिका का प्रमाण है। यह कानूनी पेशेवरों पर रखे गए भरोसे और अपने ग्राहकों के हितों के प्रति ईमानदारी, विवेक और अटूट प्रतिबद्धता की अपेक्षाओं को कम आंकता है। जैसे-जैसे कानूनी परिदृश्य विकसित होता है, वैसे-वैसे इस सिद्धांत का अनुप्रयोग भी होता है, जो नई चुनौतियों और प्रौद्योगिकियों के अनुकूल होता है, लेकिन हमेशा गोपनीयता के मौलिक वादे को अपने मूल में बनाए रखता है।

6.2 योग्यता/ क्षमता: योग्यता या क्षमता, एक मुख्य सिद्धांत के रूप में, कानूनी व्यवसायियों को न केवल सक्षम कानूनी सेवाओं के प्रावधान के लिए आवश्यक कौशल और ज्ञान के अपेक्षित स्तर को रखने की आवश्यकता होती है, बल्कि अपने ग्राहकों के प्रतिनिधित्व में ऐसे कौशल और ज्ञान को लगन और ईमानदारी से लागू करने की भी आवश्यकता होती है। इसमें प्रासंगिक कानूनी सिद्धांतों, प्रक्रियात्मक नियमों और विशिष्ट मामलों में इन्हें प्रभावी रूप से लागू करने की क्षमता की पूरी समझ शामिल है। योग्यता में कानूनी शोध को कुशलतापूर्वक संचालित करने, कानूनी दस्तावेजों और साक्ष्यों का आलोचनात्मक विश्लेषण करने और कानूनी अवधारणाओं और रणनीतियों को लिखित और मौखिक रूप से स्पष्ट और प्रेरक रूप से संप्रेषित करने की क्षमता भी शामिल है। इसके अलावा, क्षमता का सिद्धांत कानूनी व्यवसायियों के दायित्व को बढ़ाता है कि वे कानून, कानूनी प्रथाओं और तकनीकी प्रगति में होने वाले परिवर्तनों के बारे में सूचित रहें और उनके अनुकूल रहे जो उनके अभ्यास के क्षेत्र को प्रभावित कर सकते हैं। यह निरंतर शैक्षिक प्रक्रिया यह सुनिश्चित करने के लिए आवश्यक है कि प्रदान की गई कानूनी सलाह प्रासंगिक, अद्यतित और वर्तमान कानूनी मानकों और प्रथाओं के अनुपालन में बनी रहे। इसके लिए आजीवन सीखने और पेशेवर विकास के प्रति प्रतिबद्धता की आवश्यकता होती है, जिसमें कानूनी शिक्षा सम्बन्धी सेमिनारों, कॉन्फ्रेंस, संगोष्ठी, कार्यशाला आदि में नियमित रूप से भाग लेना, कानूनी वयवसायिक संघों में भाग लेना और कानूनी ज्ञान और कौशल को बढ़ाने में योगदान देने वाली अन्य सभी गतिविधियों में शामिल होना शामिल है। व्यक्तिगत क्षमता के अलावा, यह सिद्धांत किसी की विशेषज्ञता की सीमाओं को पहचानने के महत्व को रेखांकित करता है। कानूनी व्यवसायी से अपेक्षा की जाती है कि जब कोई मामला उनकी क्षमता से परे हो तो वे प्रतिनिधित्व को अस्वीकार कर दें या सहायता लें।

कानूनी क्षमता के प्रति प्रतिबद्धता यह सुनिश्चित करती है कि क्लाइंट्स को प्रभावी और कुशल कानूनी सेवाएँ प्राप्त हों। यह कानूनी प्रणाली में व्यवहारी (क्लाइंट्स) के विश्वास और आत्मविश्वास का निर्माण करता है, क्योंकि क्लाइंट्स अपने कानूनी प्रतिनिधियों अर्थात वकील पर भरोसा कर सकते हैं कि वे पेशेवर क्षमता के उच्चतम स्तर के साथ उनके सर्वोत्तम हितों में कार्य करेंगे। अंततः, सक्षमता का सिद्धांत कानूनी पेशे की अखंडता और न्याय के प्रभावी प्रशासन के लिए महत्वपूर्ण है, क्योंकि यह सुनिश्चित करता है कि कानूनी व्यवसायी अपनी भूमिकाओं की चुनौतियों का सामना करने और उन लोगों के अधिकारों और हितों को बनाए रखने के लिए पूरी तरह से सुसज्जित हैं जिनका वे प्रतिनिधित्व करते हैं।

6.3 इंटीग्रिटी (अखंडता /सत्यनिष्ठा/ ईमानदारी): कानूनी पेशे के सम्मान और प्रतिष्ठा को बनाए रखने के लिए सभी पेशेवर व्यवहारों में ईमानदारी, निष्पक्षता और सच्चाई को कायम रखना आवश्यक है। सत्यनिष्ठा वकीलों को ग्राहकों, विरोधी पक्षों, अदालतों और जनता के साथ अपनी बातचीत में सीधा होने और गुमराह या धोखा देने वाले किसी भी कार्य से बचने के लिए मजबूर करती है। यह सिद्धांत विश्वास और विश्वसनीयता के निर्माण में मौलिक है जो कानूनी पेशे की प्रभावकारिता और सम्मान के लिए महत्वपूर्ण हैं।

6.4 हितों का टकराव / कॉनफ़्लिक्ट ऑफ़ इंटरेस्ट (Conflict of

Interest): हितों के टकराव से बचना यह सुनिश्चित करने के लिए मौलिक है कि वकील अपने मुवक्किलों / क्लाइंट्स के हितों के प्रति वफादार और प्रतिबद्ध रहें। वकीलों को ऐसी स्थितियों में शामिल होने से बचना चाहिए जहां उनके फैसले से समझौता किया जा सकता है, चाहे वह व्यक्तिगत हितों या अन्य क्लाइंट्स या तीसरे पक्षों के प्रति दायित्वों के कारण हो। पारदर्शिता और स्पष्ट संचार हितों के संभावित टकराव की पहचान करने और प्रबंधित करने में महत्वपूर्ण हैं, इस प्रकार वकील- मुवक्किल संबंध में निहित अखंडता और विश्वास को संरक्षित किया जाता है।

6.5 न्यायालय के प्रति कर्तव्य: वकीलों का परम् कर्तव्य है कि वे कानून का पालन करें और न्याय प्रशासन में अदालत की सहायता करें। इसमें सटीक और सच्ची जानकारी प्रदान करना, प्रक्रियात्मक नियमों का पालन करना और न्यायपालिका और अन्य अदालती अधिकारियों के प्रति सम्मान दिखाना शामिल है। अदालत के प्रति कर्तव्य के लिए वकीलों को ऐसे कार्यों से बचना भी आवश्यक है जो न्याय प्रक्रिया में बाधा डाल सकते हैं या कानूनी प्रणाली की अखंडता / सत्यनिष्ठा को कम कर सकते हैं। इस सिद्धांत का पालन करके, वकील एक उचित और निष्पक्ष कानूनी ढांचे के रखरखाव में योगदान करते हैं जिसके भीतर समाज संचालित होता है।

6.6 मुवक्किलों /क्लाइंट्स के प्रति कर्तव्य: एक वकील को मुवक्किल को उचित सलाह देनी चाहिए। एक वकील को अपने मुवक्किल को गुमराह नहीं करना चाहिए। एक वकील अपने मुवक्किल की अनुपस्थिति में मामले में समझौता नहीं कर सकता। एक वकील को केस जीतने की स्थिति में अधिक फीस की मांग नहीं करनी चाहिए।

6.7. साथी सदस्यों के प्रति कर्तव्य: एक वकील को अपने साथी सदस्यों से किया गया वादा पूरा करना चाहिए। उसे साथी सदस्यों का सहयोग करना चाहिए।---- इन्हें कानूनी पेशेवर नैतिकता के बारे में आचार संहिता के रूप में जाना जाता है। जब कोई वकील संहिताओं का पालन करने में विफल रहता है, तो उसे अपने हिस्से में पेशेवर कदाचार करने वाला कहा जाता है।

6.8 चुनौतियाँ और समसामयिक मुद्दे: आज डिजिटल प्रौद्योगिकी के आगमन, वैश्वीकरण और विकसित होते सामाजिक मानदंडों ने कानूनी पेशे के विभिन्न पहलुओं को महत्वपूर्ण रूप से प्रभावित किया है, जिससे कानूनी नैतिकता और पेशेवर जिम्मेदारी को नियंत्रित करने वाले पारंपरिक ढांचे के लिए चुनौती बन क्र उभरा है । डिजिटल प्रौद्योगिकी द्वारा सुगम कनेक्टिविटी और तात्कालिक संचार ने भौगोलिक और न्यायिक सीमाओं को धुंधला कर दिया है, जिससे वैश्विक स्तर पर कानूनी अभ्यास से जुड़ी पेचीदगियां बढ़ गई हैं। सबसे पहले, डिजिटल प्रौद्योगिकी के प्रसार ने कानूनी चिकित्सकों और उनके क्लाइंट्स के बीच बातचीत के तरीके को बदल दिया है। इलेक्ट्रॉनिक माध्यमों से संचार की आसानी ने डेटा गोपनीयता, ग्राहक गोपनीयता और सूचना सुरक्षा के संबंध में चिंताएँ पैदा कर दी हैं। उदाहरण के लिए, असुरक्षित इलेक्ट्रॉनिक संचार चैनलों का उपयोग संभावित रूप से संवेदनशील क्लाइंट की जानकारी को अनधिकृत पार्टियों के सामने उजागर कर सकता है। यह कानूनी चिकित्सकों के लिए गोपनीय जानकारी की सुरक्षा सुनिश्चित करते हुए डिजिटल उपकरणों के प्रबंधन में कुशल होने की आवश्यकता को रेखांकित करता है, जो कानूनी नैतिकता की आधारशिला है। इसके अलावा, वैश्वीकरण ने कानूनी अभ्यास के दायरे को स्थानीय या राष्ट्रीय सीमाओं से परे विस्तारित किया है। कानूनी व्यवसायियों को लगातार कई तरह की कानूनी प्रणालियों और विनियामक ढाँचों से होकर गुजरना पड़ता है, जिनमें से प्रत्येक के पास नैतिक दिशा-निर्देश और पेशेवर जिम्मेदारी के मानकों का एक अनूठा सेट होता है। इसके लिए विविध सांस्कृतिक और कानूनी मानदंडों की गहन समझ और प्रशंसा की आवश्यकता होती है, जो बदले में कानूनी नैतिकता और पेशेवर जिम्मेदारी के लिए अधिक सूक्ष्म और लचीले दृष्टिकोण की मांग करता है। इसके अलावा, विकसित होते सामाजिक मानदंड कानूनी पेशे के प्रति जनता की अपेक्षाओं और धारणाओं को लगातार नया आकार देते हैं। उदाहरण के लिए, सामाजिक न्याय, समानता और समावेशिता पर बढ़ता जोर कानूनी व्यवसायियों को सामाजिक आवश्यकताओं और आकांक्षाओं के व्यापक स्पेक्ट्रम को पूरा करने के लिए नैतिक सिद्धांतों की अपनी समझ और अनुप्रयोग को व्यापक बनाने की चुनौती देता है। इन उभरती गतिशीलता के बीच, कानूनी पेशे के मूल मूल्यों से समझौता किए बिना परिवर्तनों के अनुकूल होना अनिवार्य है। इस अनुकूलन में उभरती प्रौद्योगिकियों के साथ सक्रिय जुड़ाव, समकालीन कानूनी अभ्यास की वैश्विक प्रकृति को अपनाने की इच्छा और बाहरी दबावों के बावजूद न्याय, अखंडता और पेशेवर उत्कृष्टता के मूल सिद्धांतों को बनाए रखने की प्रतिबद्धता

शामिल है। समकालीन मांगों के साथ पारंपरिक नैतिक ढांचे के संतुलित एकीकरण की खोज यह सुनिश्चित करने में महत्वपूर्ण है कि कानूनी पेशा इस तेजी से बदलती दुनिया में न्याय और सामाजिक विश्वास का अग्रदूत बना रहे।

6.9 शैक्षिक और विनियामक ढाँचा: हमेशा विकसित होते कानूनी परिदृश्य में, निरंतर शिक्षा और कड़े विनियामक ढाँचे यह सुनिश्चित करने के लिए अपरिहार्य हैं कि कानूनी व्यवसायी नैतिक दिशा-निर्देशों और पेशेवर ज़िम्मेदारियों पर अपडेट रहें। सामाजिक मूल्यों और मानदंडों के प्रतिबिंब के रूप में कानून परिवर्तन के अधीन है, और कानूनी व्यवसायियों को सक्षम, नैतिक और जिम्मेदार सेवाएँ प्रदान करने के लिए इन परिवर्तनों से अवगत रहना चाहिए। निरंतर शिक्षा वकीलों और अन्य कानूनी पेशेवरों को अपने ज्ञान को ताज़ा करने, नए कौशल हासिल करने और उभरते कानूनी और नैतिक मुद्दों को समझने में सक्षम बनाती है। यह उनकी विश्लेषणात्मक क्षमताओं को निखारने, उनके अभ्यास को बेहतर बनाने और अपने ग्राहकों और न्याय प्रणाली की बेहतर सेवा करने में मदद करता है।

दूसरी ओर, कड़े विनियामक ढाँचे एक संरचित वातावरण प्रदान करते हैं जहाँ पेशेवर आचरण और नैतिकता को न केवल प्रोत्साहित किया जाता है बल्कि अनिवार्य भी किया जाता है। ये ढाँचे पेशे के भीतर स्वीकार्य व्यवहार के लिए मानक निर्धारित करते हैं, यह सुनिश्चित करते हुए कि कानूनी व्यवसायी ईमानदारी, क्षमता और जवाबदेही के मूल मूल्यों को बनाए रखें। वे नैतिक दिशा-निर्देशों और पेशेवर जिम्मेदारियों के प्रवर्तन के लिए एक तंत्र प्रदान करते हैं, इस प्रकार यह सुनिश्चित करते हैं कि इन मानकों से विचलित होने वाले कानूनी व्यवसायी जवाबदेह हैं। विनियामक ढांचे नैतिक दुविधाओं और विवादों के समाधान के लिए एक मंच भी प्रदान करते हैं, जिससे कानूनी पेशे में निष्पक्षता, पारदर्शिता और विश्वास को बढ़ावा मिलता है। इसके अलावा, इन विनियामक ढाँचों में अक्सर कानून के निरंतर अभ्यास के लिए एक आवश्यकता के रूप में चल रहे व्यावसायिक विकास और नैतिक प्रशिक्षण के प्रावधान शामिल होते हैं। निरंतर शिक्षा और विनियामक ढाँचों के बीच यह सहजीवी संबंध कानूनी पेशे के भीतर उत्कृष्टता, नैतिक अभ्यास और पेशेवर जिम्मेदारी की संस्कृति को बढ़ावा देता है। यह सुनिश्चित करता है कि कानूनी व्यवसायी न केवल अपने कर्तव्यों और दायित्वों के बारे में जानते हैं, बल्कि अपने अभ्यास में आने वाले जटिल नैतिक परिदृश्यों को नेविगेट करने के लिए भी सुसज्जित हैं। इसके अलावा, एक वैश्वीकृत दुनिया में, कानूनी व्यवसायी तेजी से खुद को क्रॉस-न्यायालयीय और अंतरराष्ट्रीय कानूनी मुद्दों से निपटते हुए पाते हैं। निरंतर शिक्षा और एक मजबूत विनियामक ढांचा उन्हें स्थानीय और अंतरराष्ट्रीय स्तर पर अपने नैतिक दायित्वों की स्पष्ट समझ के साथ इन जटिलताओं को नेविगेट करने के लिए सुसज्जित करता है।

7. कानूनी नैतिकता और व्यावसायिक जिम्मेदारी का महत्व (The Importance of Legal Ethics and Professional Responsibility)

व्यावसायिक जिम्मेदारी कानूनी व्यवसाय / पेशे की आधारशिला है, जिसमें बहुआयामी दायित्वों और कर्तव्यों को शामिल किया गया है जो कानूनी चिकित्सकों को अपने ग्राहकों, अदालतों और समग्र रूप से समाज सहित विभिन्न हितधारकों को देना होता है। इसके मूल में, व्यवसायिक जिम्मेदारी कानून के अभ्यास में जवाबदेही और नैतिक मानकों के अटूट पालन के महत्व को रेखांकित करती है। पेशेवर जिम्मेदारी के प्राथमिक पहलुओं में से एक वकीलों का अपने क्लाइंट्स के प्रति प्राथमिक कर्तव्य है। वकील अपने ग्राहकों के सर्वोत्तम हित में कार्य करने के लिए बाध्य हैं, गोपनीयता बनाए रखते हुए मेहनती और सक्षम प्रतिनिधित्व प्रदान करना। यह कर्तव्य क्लाइंट्स द्वारा उनके कानूनी परामर्श पर रखे गए भरोसे को दर्शाता है और यह एक न्यायपूर्ण कानूनी प्रणाली के कामकाज के लिए आवश्यक है। इसके अलावा, कानूनी व्यवसायी अदालतों की अखंडता / सत्यनिष्ठा और विश्वसनीयता को बनाए रखने के लिए जिम्मेदार हैं। उन्हें अदालती नियमों और प्रक्रियाओं का पालन करना चाहिए, सच्ची और सटीक जानकारी पेश करनी चाहिए और ऐसे किसी भी आचरण से बचना चाहिए जो न्याय प्रशासन को कमजोर कर सकता है। अदालत की अखंडता और सत्यनिष्ठा के प्रति यह प्रतिबद्धता कानूनी कार्यवाही की निष्पक्षता और प्रभावकारिता सुनिश्चित करती है।

व्यावसायिक जिम्मेदारी व्यक्तिगत मामलों से परे फैली हुई है; यह वकीलों के व्यापक सामाजिक दायित्वों से भी संबंधित है। कानूनी चिकित्सकों का कर्तव्य है कि वे कानून के शासन, न्याय तक पहुंच और कानूनी प्रणाली में जनता के विश्वास को बढ़ावा दें। उनसे

अपेक्षा की जाती है कि वे नि:शुल्क या उचित शुल्क के साथ ही कार्य में संलग्न हों, कानूनी शिक्षा और सुधार प्रयासों में भाग लें, और पेशे की प्रतिष्ठा बनाए रखने के लिए उच्चतम नैतिक मानकों को बनाए रखें। संक्षेप में, पेशेवर जिम्मेदारी वह नैतिक ढांचा है जो कानूनी चिकित्सकों को वकील, सलाहकार और अदालत के अधिकारियों के रूप में उनकी भूमिकाओं में मार्गदर्शन करता है। यह कानूनी पेशे के मूलभूत स्तंभ के रूप में कार्य करता है, जवाबदेही को बढ़ावा देता है और यह सुनिश्चित करता है कि वकील न्याय की खोज और समग्र रूप से समाज के सुधार में योगदान दें।

8. कानूनी पेशेवर नैतिकता और उससे संबंधित आचार संहिता की आवश्यकताएँ (Requirements of legal professional ethics and related codes of conduct)

कानूनी पेशे को एक महान पेशे के रूप में जाना जाता है। यह व्यवसाय, व्यापार और अन्य व्यवसायों से अलग है। इसके लिए अच्छे गुणों की आवश्यकता होती है, क्योंकि यह न्याय का मार्ग प्रदान करता है। न्याय के मार्ग पर ईमानदारी, कड़ी मेहनत, आत्म अनुशासन और अन्य गुणों की आवश्यकता होती है। यह पेशा तभी मायने रखता है जब वकील का उसके सामने बहस करने वाले मामले के न्यायाधीश से कोई संबंध हो! महात्मा गांधी को उनके पेशेवर नैतिकता के कारण एक अच्छा वकील माना जाता है। नानी पालकीवाला, एच.एम. सीरवाई और भारत के अन्य प्रसिद्ध वकीलों को भी उनके पेशेवर नैतिकता के मार्ग के कारण सराहा गया है।

9. कानूनी पेशेवर नैतिकता के संरक्षण के लिए प्रावधान (Provisions for the protection of legal professional ethics)

अधिवक्ता अधिनियम, 1961 का अध्याय V अधिवक्ताओं के आचरण से संबंधित है। अधिनियम की धारा 35 में कदाचार के लिए अधिवक्ताओं के दण्ड से संबंधित प्रावधान दिए गए हैं। धारा 36 राज्य बार काउंसिल की अनुशासन समिति को वकील के व्यावसायिक कदाचार की शिकायत से संबंधित कार्रवाई करने का अधिकार देती है। इस उद्देश्य के लिए प्रावधान इस प्रकार हैं:

(i) कोई शिकायत प्राप्त होने पर: किसी भी वकील के विरुद्ध व्यावसायिक कदाचार के संबंध में शिकायत होनी चाहिए। हालांकि, बार काउंसिल किसी भी वकील के विरुद्ध किसी भी शिकायत पर उचित आधार होने पर मुकदमा कर सकती है। ऐसी शिकायत लिखित में होनी चाहिए और उसमें वकील के विरुद्ध व्यावसायिक कदाचार का उचित नाम, पता और विवरण दिया जाना चाहिए।

ऐसी शिकायत प्राप्त होने पर, इसे राज्य बार काउंसिल की अनुशासन समिति को भेज दिया जाता है। एक राज्य बार काउंसिल में एक से अधिक समितियां हो सकती हैं। इस तरह, पूरी प्रक्रिया का पालन अनुशासन समिति द्वारा किया जाएगा।

(ii) अनुशासन समिति का गठन और कार्य: अधिवक्ता अधिनियम, 1961 का अध्याय 2 बार काउंसिल से संबंधित है। अधिनियम की धारा 3 राज्य बार काउंसिल से संबंधित है। इसमें कहा गया है कि प्रत्येक राज्य में एक राज्य बार काउंसिल होगी। अधिनियम की धारा 9 अनुशासन समिति से संबंधित है। इसमें कहा गया है कि राज्य बार काउंसिल एक या अधिक अनुशासन समितियों का गठन करेगी। इसमें 3 व्यक्ति शामिल होंगे। एक व्यक्ति अध्यक्ष होगा और अन्य दो व्यक्ति समिति के सदस्य होंगे।

(iii) भारतीय बार परिषद (BCI) को शिकायत: अधिवक्ता अधिनियम की धारा 36-बी में कहा गया है कि यदि किसी शिकायत का निपटारा राज्य बार परिषद के समक्ष किसी शिकायत की प्राप्ति से एक वर्ष के भीतर नहीं किया जाता है, तो ऐसी शिकायत भारतीय बार परिषद को हस्तांतरित कर दी जाएगी। तब यह माना जा सकता है कि शिकायत की सुनवाई भारतीय बार परिषद की अनुशासन समिति द्वारा की जा सकती है।

(iv) अपील: पीड़ित पक्ष राज्य बार काउंसिल की अनुशासन समिति के निर्णय के 30 दिनों के भीतर बार काउंसिल ऑफ इंडिया में अपील कर सकता है और बार काउंसिल ऑफ इंडिया के निर्णय के बाद, पीड़ित पक्ष भारत के सर्वोच्च न्यायालय में अपील कर सकता है।

10. भारतीय न्यायपालिका की कानूनी पेशेवर नैतिकता पर राय/फैसले (Opinions/Judgements on Legal Professional Ethics of Indian Judiciary)

कानूनी पेशेवर नैतिकता को बनाए रखने में भारतीय न्यायपालिका की भूमिका की हमेशा सराहना की गई है। इसके कुछ उदाहरण इस प्रकार हैं:

I). प्रहलाद शरण गुप्ता बनाम बार काउंसिल ऑफ इंडिया: तथ्य: एक विवादित मामले में, दोनों पक्षों ने 1500 रुपये में विवाद को निपटाने का फैसला किया। अधिवक्ता ने किसी भी पक्ष को राशि वापस नहीं की। हालाँकि, मुवक्किल ने इस बारे में बार-बार अनुरोध

किया था, लेकिन अधिवक्ता ने इस पर उचित ध्यान नहीं दिया।

निर्णय: मुवक्किल को राशि वापस न करना पेशेवर कदाचार माना जाता है।

ii). हिकमत अली खान बनाम ईश्वर आर्य: तथ्य: इस मामले में एक अधिवक्ता ने अदालत परिसर में मामले के दूसरे अधिवक्ता पर चाकू से हमला किया। अपने खिलाफ अभियोजन के दौरान अधिवक्ता ने अपने लाभ के लिए राज्यपाल का झूठा पत्र तैयार किया।

निर्णय: वकील पर चाकू से हमला करना और राज्यपाल के नाम से झूठा पत्र तैयार करना व्यावसायिक कदाचार है।

iii). हरीश चंद्र सिंह बनाम त्रिपाठी : तथ्य : इस मामले में एक अधिवक्ता ने अपने कनिष्ठ अधिवक्ता के नाम से पावर ऑफ अटॉर्नी बनाकर अपने मुवक्किल और कनिष्ठ अधिवक्ता को गुमराह किया। फिर अधिवक्ता ने संपत्ति अपने पिता के नाम कर दी।

निर्णय : कनिष्ठ अधिवक्ता और मुवक्किल के साथ धोखाधड़ी करना व्यावसायिक कदाचार है।

iv). आर.डी. सक्सेमा बनाम बलराम शर्मा : तथ्य: अधिवक्ता ने मुवक्किल के कागजात अपने पास रख लिए, क्योंकि मामले के अधिवक्ता को भुगतान शुल्क का भुगतान नहीं किया गया था।

निर्णय : अधिवक्ता के पास ग्रहणाधिकार का अधिकार नहीं है। इसलिए इसे व्यावसायिक कदाचार माना जाता है।

v). शंभूराम यादव बनाम हनुमानदास खत्री : तथ्य : एक वरिष्ठ अधिवक्ता (90 वर्ष) ने अपने मुवक्किल को 10,000 रुपये प्राप्त करने के लिए एक पत्र लिखा था, ताकि इसे न्यायाधीश को भेजा जा सके। अपने पत्र में अधिवक्ता ने मामले के विचाराधीन होने के कारण न्यायाधीश को रिश्वत देने पर जोर दिया था। मुवक्किल ने पत्र बार काउंसिल के समक्ष प्रस्तुत किया तथा अधिवक्ता के विरुद्ध शिकायत स्वीकार कर ली गई।

निर्णय : भ्रष्टाचार के लिए मुवक्किल पर जोर देना व्यावसायिक कदाचार माना जाता है।

vi). एन.जी.दास्ताने बनाम श्रीकांत शिवदे : तथ्य : अपीलकर्ता को विदेश से न्यायालय में आना पड़ा। जबकि उसके अधिवक्ता ने हमेशा किसी न किसी कारण से मामले में स्थगन मांगा। दिनांक 4 दिसंबर 1993 को मामले के अधिवक्ता ने स्वास्थ्य के कारण न्यायालय से स्थगन मांगा। निराश होकर मुवक्किल न्यायालय से जाने ही वाला था। अचानक मुवक्किल ने देखा कि उसका अधिवक्ता किसी अन्य न्यायालय में बहस कर रहा है। इसलिए मुवक्किल ने अधिवक्ता के विरुद्ध बार काउंसिल के समक्ष आवेदन दिया।

निर्णय : झूठे कारण से बार-बार स्थगन लेना मुवक्किल तथा न्यायालय के प्रति कर्तव्यों का उल्लंघन है, इसलिए इसे व्यावसायिक कदाचार माना जाता है।

11. निष्कर्ष (Conclusion)

कानूनी नैतिकता और पेशेवर जिम्मेदारी कानूनी पेशे की आधारशिला है, जो नैतिक दिशा-निर्देश के रूप में काम करती है जो न्याय और सामाजिक विश्वास के संरक्षक के रूप में वकीलों की भूमिका में मार्गदर्शन करती है। ये सिद्धांत स्थिर नहीं हैं; उन्हें अपने मूल मूल्यों को संरक्षित करते हुए समकालीन चुनौतियों का समाधान करने के लिए विकसित होना चाहिए। लगातार बदलते कानूनी परिदृश्य में, पेशे को प्रौद्योगिकी, वैश्वीकरण और बदलते सामाजिक मानदंडों में प्रगति के कारण नई नैतिक दुविधाओं का सामना करना पड़ता है। हालाँकि, इन सिद्धांतों के प्रति दृढ़ प्रतिबद्धता आवश्यक है। वकीलों को ईमानदारी, गोपनीयता और ग्राहकों के प्रति वफादारी के शाश्वत आदर्शों को कायम रखते हुए इन चुनौतियों से निपटने के लिए खुद को ढालना चाहिए। कानूनी पेशे का भविष्य उसके नैतिक मानकों को बनाए रखने और उन्हें अपनाने की क्षमता पर टिका है। यह सुनिश्चित करता है कि वकील न्याय के लिए भरोसेमंद वकील बने रहें, कानूनी प्रणाली में जनता का विश्वास बढ़ाएँ। जैसा कि कानूनी व्यवसायी विकसित होते नैतिक विचारों को अपनाते हैं, वे कानून के शासन की रक्षा करने और व्यापक सामाजिक भलाई की सेवा करने में महत्वपूर्ण भूमिका निभाते हैं। ऐसा करने में, वे पेशे के स्थायी मिशन को बनाए रखते हैं।

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