LEGAL ENGLISH AND COMMUNICATION SKILLS

(BALLB Ist sem Code:105)

SYLLABUS:

Unit-l: Comprehension and Composition

a. Reading Comprehension of General and Legal Texts

b. Paragraph & Précis Writing

c. Abstract Writing

d. Note Taking

e. Drafting of Reports and Projects f. Petition Writing

Unit-II: Language, Communication and Law

a. Meaning and Communication Approaches

b. Types, Directions and Challenges

c. Formal & Informal Communication

d. Barriers to Communication

e. Culture and Language Sensitivity

f. Non-verbal Communication: Importance, Types (Paralanguage, Body Language, Proximity etc.)

g. Legal Maxims

h. Foreign Words, Urdu and Hindi Words

i. Legal Counselling and Interviewing

Unit-III: Legal Communication

a. Legal Communication

b. Mooting

c. Reading and Analysis of Writings by Eminent Jurists (Cases, Petitions and Judgements)

Unit-IV: Literature and Law

a. Play 'Justice' by John Galsworthy (Justice was a 1910 crime play by the British writer John Galsworthy) and Arms and the Man by George Bernard Shaw

b. Play 'Final Solutions' by Mahesh Dattani

c. Mahashweta Devi's story 'Draupadi' on Gender Inequality

d. 'The Trial of Bhagat Singh'

. Biography/Autobiography of Martin Luther and Nelson Mandela

Notes:

UNIT 3

b) MOOTING

What is mooting?

Mooting is the oral presentation of a legal issue or problem against an opposing counsel and before a judge. It is perhaps the closest experience that a student can have whilst at university to appearing in court.

Why should one get involved in mooting?

Mooting now forms a compulsory part of certain law courses, but is still a totally voluntary student-organised activity in other law schools. Whether or not mooting is compulsory at your law school, gaining mooting experience can have a positive impact on your future career.

As many students will be aware, the legal profession is an increasingly difficult one to enter. Application forms for legal professional courses, solicitors' firms and barristers' chambers often demand that a candidate can provide evidence of their advocacy or mooting experience whilst at university (over and above any of the more traditional areas of advocacy such as debating).

Mooting may also help you to build confidence in public speaking, general research, and presentation skills. In other words mooting experience can benefit every student whether or not they plan to follow a traditional legal career path upon graduation.

How is mooting done?

The Problem

A typical moot problem is concerned solely with a point (or points) of law. Normally it will take the form of a case heard on appeal from a lower court with the grounds of appeal clearly stated.

The Teams

A moot usually consists of four speakers, divided into two teams, each consisting of a leading and junior counsel. One team represents the appellants, the other the respondents. Mooters may be judged individually or as a team.

The Moot Court

The moot 'court' should reflect, as far as possible, a courtroom scenario in reality. The moot is presided over by at least one judge who delivers a judgment at the end of the moot on the law and on the result of the moot itself. The presiding judge is supported by the clerk of the moot who is responsible for providing the judge, when required, with a copy of each legal authority cited by the mooters in the course of their arguments. The clerk also times the moot speeches. The two teams of mooters sit at separate tables, taking turns to stand to present their arguments to the moot court.

A moot 'speech' will normally have a time limit of between 15 and 20 minutes. So be prepared to be on your feet, either presenting your argument or answering questions about your argument, for that amount of time. For the duration of their arguments the mooters are required to maintain the appropriate courtroom manner (remembering, amongst other things, to address the court and fellow counsel in the accepted form). Further, to add a touch of authenticity to the moot, the participants are often required to wear gowns.

Preparing for a Moot

Identifying the grounds for appeal

Mooters should first read the moot problem carefully in order to ascertain the precise grounds of appeal. The grounds are usually stated in the body of the problem, but if they are not the grounds will have to be formulated on the basis of the decision of the lower court which is being appealed against. It is perhaps a good idea to re-write the grounds of appeal in your own words in order to ensure that you understand the essence of what you will be arguing before you commence your research.

Conducting research

It may sound obvious, but ensure from the start that you and your moot partner know which side you are arguing for (i.e.) either the appellant or the respondent). Given that most moots are team competitions, it may be convenient to divide the research between the leader and junior, but co-

operation is essential because many moot teams lose because each team member is unsure what the other is arguing.

Begin your research by consulting any text books with which you are most familiar. Then check the footnotes — they are often a godsent to a mooter. Having ascertained which footnotes are relevant, make a note of the particular principles or points of law to which the particular footnote refers and write against each point the name of each statute, case, article, or book to which you are being referred. That will give you a start but expect many gaps in your research at this stage. You may also wish to consult old editions of text books (as this can contribute to the understanding of the points of law at issue by placing them in their historical context). Then continue by researching all the references that you have unearthed carefully making a note of any gaps in the research as they appear.

Textbooks are not of course designed as aids to mooting and, consequently, they might be too general and thus of limited assistance. If this is the case you will need to consult one of the practitioner texts—such as the relevant volume of Halsbury's Laws. Other publications worth consulting in the initial stages of your research are Atkin's Court Forms and The Encyclopaedia of Forms and Precedents. In order to ensure that you are up-to-date don't forget to check Current Law and its yearbooks and citators and Current Law Statutes Annotated.

Finally check any internet service to which you have access for the most recent developments. While citing information from internet retrieval sites in moot speeches should be avoided, the internet can provide a rich source for other useful information such as statistics. By this stage you will probably have to cut down the material — you may be limited by the moot rules as to the number of cases and authorities that you may refer to, but it is best to concentrate only on the most relevant cases and avoid excessive citation of authorities in any event.

Structuring and presenting the argument

Having decided what view you are expected to persuade the judge to accept, you must now work out how your argument is to progress to that conclusion. The easiest way to note down the required stages of the argument is by arranging each discrete point in a sensible order and then numbering them accordingly. Generally, assume that the moot judge is familiar with the area of law in question and do not commence your argument on too basic a level. It may also be an idea to start with a point of law that is uncontroversial in order to find your feet before considering issues upon which you are likely to be questioned and contradicted.

Be brief and make your submissions as intelligible as possible, avoiding excessive use of legal jargon. When formulating your arguments, bear in mind basic issues such as the doctrine of precedent (for instance, if the moot is in the Court of Appeal, do not propose inviting the court to overrule a decision of the House of Lords in order to facilitate your argument — although you might ask the court to distinguish any such troublesome case).

Make a proper note of the full citations upon which you intend to rely, for easy reference during the course of your speech. Be sure also that you can give a page reference for every passage cited from a judgment. Do not refer to authorities for the sake of it - the judge may question you in detail on any particular case mentioned - instead be prepared to recite a precise proposition of law that you think any case cited is authority for. Take care when referring to secondary sources and above all remember that you are not writing an essay!

Finally, after all that — do not read out your moot speech. It is an aide memoir only. The moot will test not only your ability to present the argument, but also your response to questions and flexibility when interrupted by the judge.

Organizing a mooting competition

Most law schools will have a student committee, one member of which will be responsible for mooting. This central figure has traditionally been given the rather curious name of 'master (or mistress) of the moots' at many law schools. This may be the person to make initial contact with in your law school. Alternatively, a member of staff may co-ordinate mooting activities. Either way, most law schools will have up-and-running internal mooting competitions and also enter teams in external inter-university competitions.

You will probably find that such competitions are already ongoing at your law school, but if this is not the case the basics of organizing a moot competition are as follows:

Establish the rules - Consider the rules which should be adopted for the competition, including the order in which the mooters are to speak, the timing of the moot speeches, whether or not the clock will be stopped during any questioning of the mooters by the judge, and whether the appellant team should be permitted a right of reply.

Select teams and opponents - The names of all those interested in entering the competition should be listed and divided initially (insofar as possible) into teams of four. Each set of four mooters will argue together in a moot. Bear in mind the status of each mooter, that is their particular year of study and whether or not they have studied or omitted particular legal subjects. Where possible, it is best to choose opponents who are in the same year of study and who will have studied similar options.

Set the moot problem - It is usual for the moot problem set to be concerned solely with a particular point of law. The facts are assumed to be as recorded in the moot problem and the legal issues on appeal should be clearly set out. The moot court will generally (though not always) be the Court of Appeal or the House of Lords. The mooters should be told clearly for whom they will argue and whether they are leading or junior counsel.

Set a date, time and venue, and appoint a judge and clerk - The moot judge may be an academic, postgraduate student, or member of the legal profession as the particular competition requires. The judge should be sent a copy of the moot problem and competition rules in advance of the moot. A volunteer should be found to clerk the moot. The clerk will have responsibility for the timing of the moot and also for providing the judge with copies of the authorities (eg law reports) when necessary.

Exchange of legal authorities - The usual rules of mooting require that these authorities be exchanged in advance of the moot. This means that each team should supply for the judge and the opposing team a full list of all the legal authorities upon which they intend to rely on in the course of their argument.

c) READING AND ANALYSIS OF WRITINGS BY EMINENT JURISTS

Kesavananda Bharati Sripadagalvaru and Ors. v. State of Kerala and Anr. (1973) 4 SCC 225)

It is a landmark decision of the Supreme Court of India that outlined the Basic Structure doctrine of theConstitution. Justice Hans Raj Khanna asserted through this doctrine that the constitution possesses a basic structure of constitutional principles and values. The Court cemented the prior precedent *Golaknath v. State of Punjab*AIR 1967 SC 1643, which held that constitutional amendments pursuant to Article 368 were subject to fundamental rights review.

The *Basic Structure doctrine* forms the basis of power of the Indian judiciary to review, and strike down, amendments to the Constitution of India enacted by the Indian parliament which conflict with or seek to alter this *basic structure* of the Constitution.

The 13-judge Constitutional bench of the Supreme Court deliberated on the limitations, if any, of the powers of the elected representatives of the people and the nature of fundamental rights of an individual. In a sharply divided verdict, by a margin of 7-6, the court held that while the Parliament has "wide" powers, it did not have the power to destroy or emasculate the basic elements or fundamental features of the constitution.

Although the court upheld the basic structure doctrine by only the narrowest of margins, it has since gained widespread acceptance and legitimacy due to subsequent cases and judgments. Primary among these was the imposition of the state of emergency by Indira Gandhi in 1975, and the subsequent attempt to suppress her prosecution through the 39th Amendment. When the Kesavananda case was decided, the underlying apprehension of the majority bench that elected representatives could not be trusted to act responsibly was perceived to be unprecedented. However, the passage of the 39th Amendment proved that in fact this apprehension was well-founded. In *Indira Nehru Gandhi v. Raj Narain*, a Constitutional Bench of the Supreme Court used the basic structure doctrine to strike down the 39th amendment and paved the way for restoration of Indian democracy.

The Kesavananda judgment also defined the extent to which Parliament could restrict property rights, in pursuit of land reform and the redistribution of large landholdings to cultivators, overruling previous decisions

that suggested that the right to property could not be restricted. The case was a culmination of a series of cases relating to limitations to the power to amend the Indian constitution.

Facts

In February 1970 Swami HH Sri Kesavananda Bharati, Senior Pontiff and head of "Edneer Mutt" - a Hindu Mutt situated inEdneer, a village in Kasaragod District of Kerala, challenged the Kerala government's attempts, under two state land reform acts, to impose restrictions on the management of its property. Although the state invoked its authority under Article 21, a noted Indian jurist, Nanabhoy Palkhivala, convinced the Swami into filing his petition under Article 26, concerning the right to manage religiously owned property without government interference. Even though the hearings consumed five months, the outcome would profoundly affect India's democratic processes.

Judgement

The Supreme Court reviewed the decision in *Golaknath v. State of Punjab*, and considered the validity of the 24th, 25th, 26th and 29th amendments. The case was heard by the largest ever Constitutional Bench of 13 Judges. The Bench gave eleven separate judgements, which agreed on some points and differed on others. Nanabhoy Palkhivala, assisted byFali Nariman, presented the case against the government in both cases.

Majority judgements

Upholding the validity of clause (4) of article 13 and a corresponding provision in article 368(3), inserted by the 24th Amendment, the Court settled in favour of the view that Parliament has the power to amend the Fundamental Rights also. However, the Court affirmed another proposition also asserted in the Golaknath case, by ruling that the expression "amendment" of this Constitution in article 368 means any addition or change in any of the provisions of the Constitution within the broad contours of the Preamble and the Constitution to carry out the objectives in the Preamble and the Directive Principles. Applied to Fundamental Rights, it would be that while Fundamental Rights cannot be abrogated, reasonable abridgement of Fundamental Rights could be effected in the public interest. The true position is that every provision of the Constitution can be amended provided the basic foundation and structure of the Constitution remains the same.

The nine signatories to the statement were Chief Justice S M Sikri, and Justices J.M. Shelat, K.S. Hegde, A.N. Grover, B. Jaganmohan Reddy, D.G. Palekar, H R Khanna, A.K. Mukherjee and Yeshwant Vishnu Chandrachud. Four judges did not sign: A.N. Ray, K.K. Mathew, M.H. Beg and S.N. Dwivedi.[17]

S.M. Sikri, Chief Justice

S M Sikri, Chief Justice held that the fundamental importance of the freedom of the individual has to be preserved for all times to come and that it could not be amended out of existence. According to the learned Chief Justice, fundamental rights conferred by Part III of the Constitution of India cannot be abrogated, though a reasonable abridgement of those rights could be effected in public interest. There is a limitation on the power of amendment by necessary implication which was apparent from a reading of the preamble and therefore, according to the learned Chief Justice, the expression "amendment of this Constitution", in Article 368 means any addition or change in any of the provisions of the Constitution within the broad contours of the preamble, made in order to carry out the basic objectives of the Constitution. Accordingly, every provision of the Constitution was open to amendment provided the basic foundation or structure of the Constitution was not damaged or destroyed.

Shelat and Grover, J

Held that the preamble to the Constitution contains the clue to the fundamentals of the Constitution. According to the learned Judges, Parts III and IV of the Constitution which respectively embody the fundamental rights and the directive principles have to be balanced and harmonised. This balance and harmony between two integral parts of the Constitution forms a basic element of the Constitution which cannot be altered. The word 'amendment' occurring in Article 368 must therefore be construed in such a manner as to preserve the power of the Parliament to amend the Constitution, but not so as to result in damaging or destroying the structure and identity of the Constitution. There was thus an implied limitation on the amending power which prevented the Parliament from abolishing or changing the identity of the Constitution or any of its Basic Structure.

Hegde and Mukherjea, J

Held that the Constitution of India which is essentially a social rather than a political document, is founded on a social philosophy and as such has two main features basic and circumstantial. The basic constituent remained constant, the circumstantial was subject to change. According to the learned Judges, the broad contours of the basic elements and the fundamental features of the Constitution are delineated in the preamble and the Parliament has no power to abolish or emasculate those basic elements of fundamental features. The building of a welfare State is the ultimate goal of every Government but that does not mean that in order to build a welfare State, human freedoms have to suffer a total destruction. Applying these tests, the learned Judges invalidated Article 31C even in its un-amended form.

Jaganmohan Reddy, J

Held that the word 'amendment' was used in the sense of permitting a change, in contradistinction to destruction, which the repeal or abrogation brings about. Therefore, the width of the power of amendment could not be enlarged by amending the amending power itself. The learned Judge held that the essential elements of the basic structure of the Constitution are reflected in its preamble and that some of the important features of the Constitution are justice, freedom of expression and equality of status and opportunity. The word 'amendment' could not possibly embrace the right to abrogate the pivotal features and the fundamental freedoms and therefore, that part of the basic structure could not be damaged or destroyed. According to the learned Judge, the provisions of Article 31C, as they stood then, conferring power on Parliament and the State Legislatures to enact laws for giving effect to the principles specified in Clauses (b) and (c) of Article 39, altogether abrogated the right given by Article 14 and were for that reason unconstitutional. In conclusion, the learned Judge held that though the power of amendment was wide, it did not comprehend the power to totally abrogate or emasculate or damage any of the fundamental rights or the essential elements of the basic structure of the Constitution or to destroy the identity of the Constitution. Subject to these limitations, Parliament had the right to amend any and every provision of the Constitution.

H R Khanna

H R Khanna has given in his judgment that the Parliament had full power to amend the Constitution, however, since it is only a "power to amend", the basic structure or framework of the structure should remain intact. While as per the aforesaid views of the six learned Judges, certain "essential elements" (which included fundamental rights) of the judgment cannot be amended as there are certain implied restrictions on the powers of the parliament.

According to the learned Judge, although it was permissible to the Parliament, in exercise of its amending power, to effect changes so as to meet the requirements of changing conditions, it was not permissible to touch the foundation or to alter the basic institutional pattern. Therefore, the words "amendment of the Constitution"

in spite of the width of their sweep and in spite of their amplitude, could not have the effect of empowering the Parliament to destroy or abrogate the basic structure or framework of the Constitution.

This gave birth to the Basic structure doctrine, which has been considered as the cornerstone of the Constitutional law in India.

Significance

This judgement ruled that Article 368 does not enable Parliament in its constituent capacity to delegate its function of amending the Constitution to another legislature or to itself in its ordinary legislative capacity.[19][20] This ruling made all the deemed constitutional amendments stipulated under the legislative powers of the parliament as void and inconsistent after the 24th constitutional amendment. These are articles 4 (2), 169 (3)-1962, 239A2-1962, 244A4-1969, 356 (1)c, para 7(2) of Schedule V and para 21(2) of Schedule VI.[21] Also articles 239AA(7)b-1991, 243M(4)b-1992, 243ZC3-1992 and 312(4)-1977 which are inserted by later constitutional amendments and envisaging deemed constitutional amendments under legislative powers of the parliament, should be invalid. The Supreme Court declared in the case 'A. K. Roy, Etc vs Union Of India And Anr on 28 December, 1981' that the article 368(1) clearly defines constituent power as 'the power to amend any provision of the constitution by way of an addition, variation or repeal'. it reiterated that constituent power must be exercised by the parliament itself in accordance with the procedure laid down in article 368.

The government of Indira Gandhi did not take kindly to this implied restriction on its powers by the court. On 26 April 1973, Justice Ajit Nath Ray, who was among the dissenters, was promoted to Chief Justice of India superseding three senior Judges, Shelat, Grover and Hegde, which was unprecedented in Indian legal history. Advocate C.K. Daphtary termed the incident as "the blackest day in the history of democracy". Justice Mohammad Hidayatullah (previous Chief Justice of India) remarked that "this was an attempt of not creating 'forward looking judges' but 'judges looking forward' to the office of Chief Justice".

The 42nd Amendment, enacted in 1976, is considered to be the immediate and most direct fall out of the judgement. Apart from it, the judgement cleared the deck for complete legislative authority to amend any part of the Constitution except when the amendments are not in consonance with the basic features of the Constitution.

The basic structure doctrine was adopted by the Supreme Court of Bangladesh in 1989, by expressly relying on the reasoning in the Kesavananda case, in its ruling on *Anwar Hossain Chowdhary v. Bangladesh* (41 DLR 1989 App. Div. 165, 1989 BLD (Spl.) 1).

Indra Sawhney & ors. V. Union of India

When our own Constitution was framed the framer of the constitution made a special provision with intention to provide equal opportunity in the public employment to all the citizens within INDIA. The same was inserted in the Art. 16 of the Indian Constitution. But considering the backward classes a special provision was inserted in the same Art. In clause 4 i.e., in Art. 16(4). This section empowers the State to make a special provision for those backward classes who in the opinion of the State are not adequately represented in the service under the State.

But in these connection two questions reasonable explores our mind that:

i. Who will be designated as a backward class people for the purpose of this section? &

ii. Who will be treated to be inadequate in the employment under State?

Because there were no suitable answers of these two questions given under the provision of the Constitution. By taking this advantage the ruling party who were in the power at Centre utilised this provisions for their own political benefit. But this case (which is also famously known as MONDAL COMMISSION'S case) plays an important role to find out the answer of these two questions. So it is very important for us to know the fact, issue, findings & judgement of this case which are going to be discussed on subsequently.

Facts of This Case:-

Ø The facts of the cases were as follows. On January 1, 1979 the JANATA Government headed by the Prime Minister Sri MORARJI DESAI appointed the second Backward Classes (By a Presidential Order under Article 340 of the Constitution of India, the first Backward Class Commission known as KAKA KALLELKAR's Commission was set up on January 29, 1953 and it submitted its report on March 30, ,1955 listing out 2399 castes as socially and educationally backward on the basis of criteria evolved by it, but the Central Government did not accept that report and shelved it in the cold storage) Commission under Article 340 of the Constitution under the chairmanship of Sri B.P. Mandal (MP) to investigate the Socially & Educationally Backward Classes within the territory of INDIA & recommended steps to be taken for their advancement including the necessary provision which are to be required to be made for them for the upliftment of their status by giving equal opportunity in the public employment.

Ø The commission submitted its report on December, 1980 in this report the commission identified about 3743 castes as socially & educationally backward classes& recommended for reservation of 27% in Government jobs.

Ø In the meantime due to internal disturbance within the party the GOVT. collapsed & by thus it couldn't implement the recommendations made by MANDAL COMMISSION& after that the CONGRESS GOVT. headed by the Prime Minister Smt. INDIRA GANDHI came to the power at centre. But shedidin't implement the MANDAL COMMISIONS report till 1989. In 1989 the CONGRESS GOVT. toppled due to the defeat of the general election.

Ø After winning that election JANATA DAL again came to the power & decided to implement the report of the commission. After that then Prime Minister V.P.SINGH issued office of memorandum on AUGUST 13, 1990& reserved 27% seats for the Socially & Backward classes.

Ø This cause effect in civil disturbance throughout the INDIA. From various places anti Reservation movement rocked the nation for 3 months. It results a huge loss of persons & property.

Ø A writ petition was filed from the BAR ASSOCIATION OF THE SUPREME COURT.Challenging the validity of Office of Memorandum issued by the GOVT.

Ø The case was ultimately decided by the 5 Judges bench. They issued a stay order till the final disposal of the case on October 1, 1990. Unfortunatelyin the meanwhile JANATAGOVT. again collapsed due to defections & in 1991 by the Parliamentary elections & the Congress again formed the GOVT. at centre.

Ø To tackle the situation & also for the political gain then Prime Minister P.V. NARSHIMA RAO issued another office of memorandum by making 2 changes i) by introducing the economic criterion in granting reservation within 27% in Govt. Job. & ii) Reserved another 10% of vacancies for the socially & educationally backward classes. That is total 37% (27% 10%)

Ø The 5 judge's bench referred this matter to the 9 judges bench who issued a notice to the Govt. to show cause the criteria upon which the GOVT. has proposed to make 27% reservation for them. But in spite of taking several adjournments the GOVT. of INDIA has failed to explain the criteria mentioned in the office of memorandum.

Issue Framed By the Court:-

In this case the court framed the following issues:-

1. Whether Article 16(4) is an exception to Article 16(1) and would be exhaustive of the right to reservation of posts in services under the State?

2. What would be the content of the phrase "Backward Class" in Article 16(4) of the Constitution and whether caste by itself could constitute a class and whether economic criterion by itself could identify a class for Article 16(4) and whether "Backward Classes" in Article 16(4) would include the "weaker sections" mentioned in Article 46 as well?

3. If economic criterion by itself could not constitute a Backward Class under Article 16(4), whether reservation of posts in services under the State, based exclusively on economic criterion would be covered by Article 16(1) of the Constitution?

4. Can the extent of reservation of posts in the services under the State under Article 16(4) or, if permitted under Article 16(1) and 16(4) together, exceed 50 % of the posts in a cadre or Service under the State or exceed 50% of appointments in a cadre or service in any particular year and can such extent of reservation be determined without determining the inadequacy of representation of each class in the different categories and grades of Services under the State?

5. Does Article 16(4) permit the classification of 'Backward Classes' into Backward Classes and Most Backward Classes or permit classification among them based on economic or other considerations?

6. Would making "any provision" under Article 16(4) for reservation "by the State" necessarily have to be by law made by the legislatures of the State or by law made by Parliament? Or could such provisions be made by an executive order?

7. Will the extent of judicial review be limited or restricted in regard to the identification of Backward Classes and the percentage of reservations made for such classes, to a demonstrably perverse identification or a demonstrably unreasonable percentage?

8. Would reservation of appointments or posts "in favour of any Backward Class" be restricted to the initial appointment to the post or would it extend to promotions as well?

9. Whether the matter should be sent back to the Five-Judge Bench?

Argument Made On Behalf Of The Petitioner:-

On behalf of the Petitioner following arguments were made by learned SENIORCOUNCEL, Mr. N.A. Palkhiwala, Mr. K.K. Venugopal, Smt. Shyamala Pappu and Mr. P.P. Rao assisted by a battery of layers appearing for the petitioners:-

I. Firstly, the recommendations made by the MONDAL COMMISSION are indirectly provoking the evil idea of CASTE SYSTEM which is nothing but considered as against the idea of the secularism. According to themwould be dangerous and disastrous for the rapid development of the Indian society as a whole marching towards the goal of the welfare state. They also contended that the identification of SEBCs by the Commission on the basis of caste system is bizarre and barren of force, much less exposing hollowness. Therefore, the OMs issued on the strength of the Mandal Report which is solely based on the caste criterion arc violative of Article 16(2).

II. Secondly, the report was not solely based upon the caste criteria but three other factors are also considered i.e. social, educational and economic backwardness but giving more importance -rightly too - to the social backwardness as "having a direct consequence of caste status.

III. Thirdly, the present Report based on 1931 census can never serve a correct basis for identifying the 'backward class', that therefore, a fresh Commission under Article 340(1) of the Constitution is required to be appointed to make a fresh wide survey throughout the length and breadth of the country and submit a new list of OBCs (other backward classes) on the basis of the present day Census.

IV. Fourthly, if the recommendations of the Commission are implemented, it would result in the sub-standard replacing the standard and the reins of power passing from meritocracy to mediocrity.

V. Fifthly, it will be in demoralization and discontent and that it would revitalize caste system, and cleave the nation into two - forward and backward - and open up new vistas for internecine conflict and fissiparous forces, and make backwardness a vested interest.

VI. Sixthly, the argument that the implementation of the recommendations of the Commission would result in demoralisation of the meritorious candidates appearing for the public employment.

VII. Seventhly, the 'Equal protection' clause prohibits the State from making unreasonable discrimination in providing preferences and facilities for any section of its people.

VIII. Eighthly, the arguments criticising the Report is that the said Report virtually rewrites the Constitution and in effect buries 50 fathoms deep the ideal of equality and that if the recommendations are given effect to and implemented, the efficiency of administration will come to a grinding halt.

Arguments Made On Behalf Of The Respondent I.E., Govt. Of India:-

I. Firstly, if the above argument is accepted it will result in negation of the just claim of the SEBCs to avail the benefit of Articles 16(4) which is a fundamental right.

II. Secondly, that the attack which was trough from the petitioner side that this report was totally based upon the census report made on 1931 report is completely false & baseless because A perusal of the Report itself indicates that the 1931 census does not have even a remote connection with the identification of OBCs. But on the other hand, they are identified only on the basis of the country-wide socio-educational field survey and the census report of 1961 particularly for the identification of primitive tribes, aboriginal tribes, hill tribes, forest tribes and indigenous tribes.

III. Thirdly, the Commission cannot be said to have ignored this factual position and found fault with for relying on 1931 census. In fact, this position is made clear by the Commission itself in Chapter XII of its Report. However Systematic caste-wise enumeration of population was introduced by the Registrar General of India in 1881 and discontinued in 1931. In view of this, figures of caste-wise population beyond 1931 are not available.

IV. Fourthly, the commission only went through the census report made on 1931 with intention to gain an idea of community-wise population figures from the census records of 1931 and, then grouped them into broad caste-clusters and religious groups. These collectivises were subsequently aggregated under five major heads i.e. (i) Scheduled Castes and Scheduled Tribes; (ii) Non-Hindu communities, Religious Groups, etc.; (iii) Forward Hindu Castes and Communities; (iv) Backward Hindu Castes and Communities; and (v) Backward Non-Hindu Communities. In this connection the RESPONDENT cited the example of “BALARAM CASE” where the Court considered the census report made on 1931.

V. Fifthly, the Commission only after deeply considering the social, educational and economic backwardness of various classes of citizens of our country in the light of the various propositions and tests laid down by this Court had submitted its Report enumerating various classes of persons who are to be treated as OBCs.The recommendations made in the present Report after a long lull since the submission of the Report by the First Backward Classes Commission, are

supportive of affirmative action programmes holding the members of the historically disadvantaged groups for centuries to catch up with the standards of competition set up by a well advanced society.

VI. As a matter of fact, the Report wanted to reserve 52% of all the posts in the Central Government for OBCs commensurate with their ratio in the population. However, in deference to legal limitation it has recommended a reservation of 27% only even though the population of OBCs is almost twice this figure.

VII. Pointing out one attack made on behalf of the PETITIONERthat if the commission's report is implemented then it result in the sub-standard replacing the standard& also demoralisation of the meritorious candidates appearing for the public employment is totally false & base upon false assumption because the very object of Article 16(4) is to ensure equality of opportunity in matters of public employment and give adequate representation to those who have been placed in a very discontent position from time immemorial on account of sociological reasons. Here the Commission through its report recommended the GOVT. to fulfil this target only & nothing else.

VIII. Though 'equal protection' clause prohibits the State from making unreasonable discrimination in providing preferences and facilities for any section of its people, nonetheless it requires the State to afford substantially equal opportunities to those, placed unequally.

IX. There is no question of rewriting the Constitution, because the Commission has acted only under the authority of the notification issued by the President.

Findings Of The Court:-

In connection of this case following findings were made by the Court:-

I. Clause (4) of Article 16 is not an exception to Clause (1) thereof. It only carves out a section of the society, viz., the backward class of citizens for whom the reservations in services may be kept. The said clause is exhaustive of the reservations of posts in the services so far as the backward class of citizens is concerned. It is not exhaustive of all the reservations in the services that may be kept. The reservations of posts in the services for the other sections of the society can be kept under Clause (1) of that Article.

II. The backward class of citizens referred to in Article 16(4) is the socially backward class of citizens whose educational and economic backwardness is on account of their social backwardness. A caste by itself may constitute a class. However, in order to constitute a backward class the caste concerned must be socially backward and its educational and economic backwardness must be on account of its social backwardness.The economic criterion by itself cannot identify a class as backward unless the economic backwardness of the class is on account of its social backwardness. The weaker sections mentioned in Article 46 are a genus of which backward class of citizens mentioned in Article 16(4) constitute a species. Article 16(4) refers to backward classes which are a part of the weaker sections of the society and it is only for the backward classes who are not adequately represented in the services, and not for all the weaker sections that the reservations in services are provided under Article 16(4).

III. No reservations of posts can be kept in services under the State based exclusively on economic criterion either under Article 16(4) or under Article 16(1).

IV. Ordinarily, the reservations kept both under Article 16(1) and 16(4) together should not exceed 50 per cent of the appointments in a grade, cadre or service in any particular year. It is only for extra-ordinary reasons that this percentage may be exceeded. However, every excess over 50 per cent will have to be justified on valid grounds which grounds will have to be specifically made out.The adequacy of representation is not to be determined merely on the basis of the overall numerical strength of the backward classes in the services. For determining the adequacy, their representation at different levels of administration and in different grades has to be taken into consideration. It is the effective voice in the administration and not the total number which determines the adequacy of representation.

V. Article 16(4) permits classification of backward classes into backward and more or most backward classes. However, this classification is permitted only on the basis of the degrees of social backwardness and not on the basis of the economic consideration alone.If backward classes are classified into backward and more or most backward classes, separate quotas of reservations will have to be kept for each of such classes. In the absence of such separate quotas, the reservations will be illegal. It is not permissible to classify backward classes or a backward class social group into an advanced section and a backward section either on economic or any other consideration. The test of advancement lies in the capacity to compete with the forward classes. If the advanced section in a backward class is so advanced as to be able to compete with the forward classes, the advanced section from the backward class no longer belongs to the backward class and should cease to be considered so and denied the benefit of reservations under Article 16(4).

VI. The provisions for reservations in the services under Article 16(4) can be made by an executive order.

VII. There is no special law of judicial review when the reservations under Article 16(4) are under scrutiny. The judicial review will be available only in the cases of demonstrably perverse identification of the backward classes and in the cases of unreasonable percentage of reservations made for them.

VIII. It is not necessary to answer the question since it does not arise in the present case. However, if it has to be answered, the answer is as follows:The reservations in the promotions in the services are unconstitutional as they are inconsistent with the maintenance of efficiency of administration.However, the backward classes may be provided with relaxations, exemptions, concessions and facilities etc. to enable them to compete for the promotional posts with others wherever the promotions are based on selection or merit-cum-seniority basis.Further, the committee or body entrusted with the task of selection must be representative and manned by suitable persons including those from the backward classes to make an impartial assessment of the merits.To ensure adequate representation of the backward classes which means representation at all levels and in all grades in the service, the rules of recruitment must ensure that there is direct recruitment at all levels and in all grades in the services.

IX. The matter should not be referred back to the Five-Judge Bench since almost all the relevant questions have been answered by this Bench. The grievance about the excessive and about the wrong inclusion and exclusion of social groups in and from the list of backward classes can be examined by a new Commission which may be set up for the purpose.

Observation of The Court:-

Following observations were made by the court in connection of this case:-

I. The court particularly in this case observed that after the issue of Office of Memorandum (O.M.) by the GOVT. of INDIA regarding implementation of the recommendation made in the MONDAL COMMISSION report a wide spread violence occurred throughout the INDIA by which large number of public & properties were get effected by it. So Court considering the social scenario appealed to the people to keep peace & maintain social order.

II. Court also observed & also admitted that this types of problem which mainly occurred from the caste system & which we are now facing is nothing but a consequence of our own fault as we created in our ancient day & till we have been following. It is really a peril for our society. But

we being judges can't overlook it because otherwise basic object of the Constitution will be defeated. Our duty is to interprete this provision i.e., Art. 16(4) in such a way so that the true object of the framer of the constitution can easily be find out.

III. Court also pointed out that the Part-III of the Constitution (mainly deals with FUNDAMENTAL RIGHTS)&- Part III of the Constitution (mainly deals with FUNDAMENTAL DUTIES)are the core sections the constitution which was enacted for removal of historic injustice and inequalities either inherited or artificially created in the INDIAN society.

IV. The court also observed the idiotic practise our society where the moment a child comes out of the mother's womb in a Hindu family and takes its first breath and even before its umbilical cord is cut off, the innocent child is branded, stigmatized and put in a separate slot according to the caste of its parents despite the fact that the birth of the child in the particular slot is not by choice but by chance.

V. The concept of inequality is unknown in the kingdom of God who creates all beings equal, but some people have created the artificial inequality in the name of castism with selfish motive and vested interest. In this respect the court also pointed out the view of SWAMI VIVEKANANDA where he one of his letter referred "Caste or no caste, creed or no creed, or class, or caste, or nation, or institution which bars the power of free thought and action of an individual - even so long as that power does not injure others - is devilish and must go down".

Judgement:-

The 9 judges Constitution Bench of the Supreme Court by 6-3 majority gave the following judgements:-

I. Backward class of citizen in Article 16(4) can be identified on the basis of the caste system & not only on economic basis.

II. Article 16(4) is not an exception of Article 16(1). It is an instance of the classification. Reservation can be made under article 16(1).

III. Backward classes in Article 16(4) were not similar to as socially & educationally backward in article 15(4).

IV. Creamy layer must be excluded from the backward classes.

V. Article 16(4) permits classification of backward classes into backward & more backward classes.

VI. A backward class of citizens cannot be identified only & exclusively with reference to economic criteria.

VII. Reservation shall not exceed 50%.

VIII. Reservation can be made by the 'EXECUTIVE ORDER'.

IX. No reservation in promotion.

X. Permanent Statutory body to examine complains of over – inclusion / under – inclusion.

XI. Majority held that there is no need to express any opinion on the correctness or adequacy of the exercise done by the MONDAL COMMISSION.

XII. Disputes regarding new criteria can be raised only in the Supreme Court.

Conclusion:-

The decision of this case no doubtly laid down a workable & reasonable solution to the reservation problem. But inspite of that the politicians are still trying the dilute the effect of the decision of this case with intention to political gain. Subsequently three Constitutional amendments were made.

1. The Constitution 77th Amendment in 1995:- by this amendment a new clause were inserted under Article 16 & i.e., Article 16(4 - A). Which empowers the State to make to make a provision for reservation in matter of promotion to any class or classes of posts in the service of the State in favour of the SC & ST?

2. The Constitution 77thAmendment in 2000:- by this amendment a new clause (4 – B) was inserted under Article 16. By this amendment it was fixed that reservation can exceed above 50% reservation for SC, ST & BC if backlog vacancies which could not be filled up in the previous years due to the non-availability of eligible candidates.

3. The Constitution 77th Amendment in 2001:- by this amendment the word "in the matter of promotion to any classes" were substituted by the words "in the matter of promotion with consequential seniority, to any classes"

These types of acts on behalf of the GOVT. clearly indicates that with intention to gain huge vote banks by curtailing its effect the ruling party manipulately by passed the decision made in this case.

UNIT4:

a) JUSTICE, by GALSWORTHY

ABOUT THE PLAY:

The play opens in the office of James How & Sons, solicitors. The senior clerk, Robert Cokeson, discovers that a check he had issued for nine pounds has been forged to ninety. By elimination, suspicion falls upon William Falder, the junior office clerk. The latter is in love with a married woman, the abused and ill-treated wife of a brutal drunkard. Pressed by his employer, a severe yet not unkindly man, Falder confesses the forgery, pleading the dire necessity of his sweetheart, Ruth Honeywill, with whom he had planned to escape to save her from the unbearable brutality of her husband. Notwithstanding the entreaties of young Walter How, who holds modern ideas, his father, a moral and law-respecting citizen, turns Falder over to the police.

The second act, in the court room, shows Justice in the very process of manufacture. The scene equals in dramatic power and psychologic verity the great court scene in "Resurrection". Young Falder, a youth of twenty-three, stands before the bar. Ruth, his faithful sweetheart, full of love and devotion, burns with anxiety to save the young man, whose affection for her has brought about his present predicament. Falder is defended by Lawyer Frome, whose speech to the jury is a masterpiece of social philosophy. He does not attempt to dispute the mere fact that his client had altered the check; and though he pleads temporary aberration in his defense, the argument is based on a social consciousness as fundamental and all-embracing as the roots of our social ills. He shows Falder to have faced the alternative of seeing the beloved woman murdered by her brutal husband, whom she cannot divorce, or of taking the law into his own hands. He pleads with the jury not to turn the weak young man into a criminal by condemning him to prison.

In prison the young, inexperienced convict soon finds himself the victim of the terrible "system." The authorities admit that young Falder is mentally and physically "in bad shape," but nothing can be done in the matter: many others are in a similar position, and "the quarters are inadequate."

The third scene of the third act takes place in Falder's prison cell.

Falder leaves the prison, a broken man. Thanks to Ruth's pleading, the firm of James How & Son is willing to take Falder back in their employ, on condition that he give up Ruth. Falder resents this:

It is then that Falder learns the awful news that the woman he loves had been driven by the chariot wheel of Justice to sell herself. At this moment the police appear to drag Falder back to prison for failing to report to the authorities as ticket-of-leave man. Completely overcome by the inexorability of his fate, Falder throws himself down the stairs, breaking his neck.

The socio-revolutionary significance of "Justice" consists not only in the portrayal of the in-human system which grinds the Falders and Honeywills, but even more so in the utter helplessness of society as expressed in the words of the Senior Clerk, Cokeson, "No one'll touch him now! Never again! He's safe with gentle Jesus!"

BACKGROUND OF THE PLAY:

John Galsworthy ‘s play Justice belongs to the great tradition of the realistic social drama that was to exercise a deep impact during the early twentieth century . What characterized these realistic social plays is their intense preoccupation with social and moral issues. A theme of equal social impact that had received thoughtful considerationby social playwrights in general and Galsworthy in particular is the theme of crime and punishment . There developed a new awareness towards one of the gravest of social issues notably the rightness of legal justice. Plays that deal with social, moral and ethical themes are referred to as “problem plays”. The concern for rightness of legal justice is the central concern of the play John Galsworthy’s play Justice and that makes it a “problem play”. Galsworthy wished to produce the natural spectacle of life with all its problems and moralizing undertones in a language that belongs to the common level of understanding and experience of the public.

SUMMARY/ACTION OF THE PLAY:

The play opens in the office of the managing clerk at the firm of James and Walter How. Robert Cokeson, the managing clerk is sitting at his table adding up figures in a pass- book when Sweedle, the office boy appears to inform that a lady wants to see Falder, a junior clerk in the office. The lady is called in. Introducing herself as Ruth Honeywell, she tells Cokeson that she wants to see Falder on personal business. Cokeson replies that it is against rules to allow private callers in the office, but when she insists that it is a matter of life and death, he reluctantly allows her to meet Falder who has just come in.

Ruth informs Falder that her husband in a drunken state had tried to kill her and she fled with the children while her husband was asleep. As Falder reveals his plan to go away from England, they must pretend to be husband and wife. Ruth needs some money to make some purchases. Thinking that Falder is hesitant to go away with her, she offers to stay back with her husband and be killed rather than go away with him against his will. But Falder assures her that they will go and tells her to be at the booking office at 11:45 that night.

But meanwhile James How, the senior partner, points out a discrepancy in the balance amount in the pass- book and soon it is found that a cheque drawn for nine pounds has been cashed for ninety pounds. Walter says that he had given the cheque to Cokeson. But as it was his lunch time, Cokeson had given the cheque to Davis, a junior clerk to cash it. Cokeson is upset and draws the conclusion that Davis who has just left for Australia had forged the cheque.

Meanwhile, Cowley, the cashier of the bank who had encashed the cheque is called in so that he will be able to identify the person who had encashed the cheque. The cashier identifies Falder who has just come to James How's room as the person who had encashed the cheque for ninety pounds. When the cashier leaves, James calls in Falder and asks him about the cheque. Falder admits that Davis gave him the cheque to encash it. He did encash it but it was for ninety pounds. Falder suggests that possibly Davis altered the cheque before giving it to him. But James How tells him that the counterfoil of the cheque was with Walter till Tuesday and hence it was not possible for Davis to alter the figures in the counterfoil as he had already left for Australia on Monday. Being thus cornered, Falder admits his guilt and begs to be excused pleading that he has committed the offence in a fit of madness. Besides, he even promises to return the money.

Both Walter and Cokeson request James How to be lenient as this is his first offence. Walter would like to give Falder a chance for the sake of his future. But James is of the view that such persons are to be kept in prison. Meanwhile, Detective Sergeant Wister arrives and Falder is taken away on the charge of felony.

Act II opens in the Court of Justice. The Court-room is crowded with barristers, reporters, ushers and jurymen. The trial of Falder is in progress.

Falder is seen at the dock with a warden on either side of him. He is being tried for an offence he had committed on 7th July. On that day, he had forged a cheque. The offence was discovered on the 18th of July. He was arrested on the same day and was taken away to prison. He remained as an under-trial prisoner till October when the trial took place. In the trial, Falder is represented by Hector Frome, a tall young man in a very white wig. Harold Cleaver, the counsel for the Crown, is a dried, yellowish man, of more than middle-age in a yellowing wig.

Falder's counsel Frome does not dispute the fact of forgery of the cheque but takes up the plea that he had committed the offence "in a moment of aberration, amounting to temporary insanity" caused by violent distress under which he was labouring. He presents to the court the circumstances of his love for a woman married to a brutal drunkard and how he had planned to rescue her. He appeals to the jury to consider the fact that the unfortunate woman has no other means to save herself and her children, except by escaping with Falder to a foreign country. For that they require money. Driven by a desperate impulse to obtain the much- needed money, Falder altered the figures in the cheque. Frome argued that as Falder was not in a sane state of mind, he could not be held responsible for his action and to prove his contention, he cites the evidence, first of Cokeson, and next of Honeywill.

After Frome, the defence counsel had examined both Cokeson and Ruth. Cleaver, the prosecution counsel, cross- examines Falder. In his evidence, Falder had taken the plea that he was off his mind when he forged the cheque and for four minutes, he knew nothing except that he ran to the bank. Cleaver's contention is that since Falder knew that he ran, he could not by any means have been unconscious of what he did or did not do when altering the cheque. Cleaver's view is summed up in this extract:

Cleaver: Divested of the romantic glamour which my friend is casting over the case, is this anything but an ordinary forgery? Come.

Falder: I was half frantic all that morning, sir.

Cleaver: Now, now! You don't deny that the 'ty' and the 'nought' were so like the rest of the handwriting as to thoroughly deceive the cashier?

Falder: It was an accident.

Cleaver: (cheerfully) Queer sort of accident, wasn't it?

Cleaver attempted to prove that Falder was not at all off his mind but had done everything deliberately in a planned way including going back to work in the afternoon after encashing the cheque and depositing nine pounds and changing the figures in the counterfoil five days later.

From, the defence counsel, next addresses the jury by expressing his belief that the jury has already been convinced that the offence was committed in "a moment of mental and moral activity" arising from intense emotional excitement. He appealed to the jury that his objective was not to invest the case with "romantic glamour" but to show the background of "life" that had led to the offence. The act of forging the cheque was the work of four mad moments during which this weak and nervous young man had slipped into the cage of the Law. He had already passed two months in the prison as an under-trial prisoner and that had been punishment enough for him.

However, Cleaver, the prosecution counsel, crushes Frome's plea of temporary insanity by quoting the managing clerk and the woman's statements that the accused was not mad, however excited or "jumpy" he might have been. Besides the seriousness of the offence, two other points needed consideration to prosecute Falder: his action that would shift the suspicion to Davis, the clerk who was on tour and his relations with a married woman.

At the direction of the judge, the jury who had left the court room for a private discussion returns and announces that they have found Falder guilty. The judge agrees with the verdict of the jury that Falder is guilty of forgery. While agreeing that Falder was overcome by emotions, the judge clarified the immoral nature of the emotions for which any plea for mercy could not be considered. He observed: "The Law is what it is- a majestic edifice, sheltering all of us, each stone of which rests on another. I am concerned only with its administration.You will go to penal servitude for three years".

Act III opens in the prison Governor's room. The date is 24th December. We recall that Falder was arrested on 18th July, was tried in October and sentenced to three years of penal servitude.

The chief jail-warder, Wooder, has discovered a small, rough, handmade saw made by a prisoner named Moaney and who has cut his window bar with it. Moaney is an old jail- bird serving his fourth term. The warder reports to the governor that there is a general unrest among the prisoners, though they are in separate cells. The prisoner named O' Cleary began banging on his door that morning. The governor is worried at the discontentment of the prisoners. However, the prison chaplain is all for breaking the will power of these prisoners.

Presently Cokeson, the managing clerk of the solicitors' firm where Falder worked, enters and meets the governor. He tells the governor that he has come to talk about Falder who was his junior clerk. Falder's sister had requested him to enquire about Falder. But the governor explains to him that as Falder is on a month's separate confinement, he is not allowed any visitors. Cokeson is upset to hear this and remembers how it had affected Falder's mind when he was an under-trial prisoner.

Cokeson relates to the governor Falder's love with a married woman whose husband was a nasty and spiteful fellow. He refers to her desire to wait for him till he comes out. He tells the governor: "He's got three years to serve. I want things to be pleasant with him. He sees no good in solitary imprisonment." The Chaplain however doesn't seem to agree with Cokeson's views.

Meanwhile, the jail-doctor arrives and reports that solitary confinement is doing him no harm. But Cokeson refers to the great mental suffering of the young man. He then asks if the woman could be permitted to see Falder; that would do well to both of them. However, the governor tells him that such visits are against rules. Cokeson turns back sadly.

Scene ii of Act III presents a vivid picture of the effect of solitary imprisonment on the prisoners by bringing out the episode of the inspection of the prison governor of the prisoners undergoing solitary confinement. First, the governor sees Moaney, inquires of him about the saw that he has made and whether he would give him his word not to try it again. But when Moaney does not wish to give his word, he is given two days' cell with bread and water. Next, the governor sees Clipton who is suffering from age complaints and is a nervous wreck for whom sleep is the only comfort. He complains about the noise from the adjacent cell. The governor then sees O' Cleary, the Irish prisoner who banged on the door in the morning. Being asked why he banged on the door, he says that the impulse to make noise seizes him; he cannot be steady. The noise that he makes with his hands will be conversation to him. The governor then goes to Falder's cell. He asks Falder to settle down to prison life calmly and not break down in nervousness. Falder says that he cannot sleep in the early hours of the morning and has the apprehension that he will not be able to come out of prison. The governor asks him to strengthen his mind and not to think of private troubles. Meanwhile, when the prison-doctor arrives, the governor asks him to examine Falder's health. After examining Falder, the doctor reports that there is nothing wrong with him except his nervousness.

Scene iii of Act III takes us to Falder's cell, a whitewashed space thirteen feet broad by seven deep- and nine feet high, with a rounded ceiling. His bedding lies rolled up in a corner. On a shelf above, lie several books. The novel Lorna Doone lies open on a small table. Above the table is hanging a shirt from a nail, his set work being to make button- holes in the shirt. There is a gas jet in a corner by the window covered by a thick glass.

Falder is seen standing motionless trying hard to hear something, any little sound outside the silent prison cell. He paces the cell like an animal in a cage. There is a sharp tap and a click. A sound from far away terrifies him at first. But when the banging sound travels from cell to cell, his weak brain is overpowered. He swings his hand in a sort of unconscious response to the sound and at last begins to beat the door.

Act IV opens in Cokeson's room on a March evening two years later. This point is interesting. We know that Falder was imprisoned in October for three years. But now we see that he has been released in about two years. Obviously, he has got partial remission of the three year term as we understand from Ruth Honeywill's discussion with Cokeson. She tells Cokeson that she

met Falder the day before; he is all skin and bone. Falder had got a job but he could keep it for only three weeks.

Cokeson asks her if she can do something for him, till he finds his feet. But she tells Cokeson of her difficulty in that matter as the money she earns is not enough for the two children. Then her employer kept her as his mistress and treated her well. But now that she has seen Falder released from prison, she will no more return to her employer and asks Cokeson if Falder could be employed back by the firm. Cokeson does not promise anything but tells her that he will speak to the partners. Then Ruth goes out.

Presently, Falder enters the room. Cokeson shakes hands with him and tells him that he intends to speak to the partners about him. Falder then relates to him how, after his release, he found employment but when the other clerks came to know of his past, he gave up the job in shame. He then got another job, but could not stick to it. He did something wrong by giving false references and being afraid he left the job. He also tells Cokeson about his ill- treatment at the hands of his sister's husband who wanted to pay him twenty- five pounds to see that he left for Canada for good. Cokeson too wanted to offer him the money but Falder declines the offer.

Falder next relates his meeting with Ruth and his love for her inspite of the fact that it has caused him so much misery. Falder remarks with bitter irony that everyone seems to be sorry for him but all are afraid to associate with him. Presently, when the partners of the firm, James and Walter How, arrive Cokeson sends Falder to retire into the clerk's office in order to talk about him to the partners.

Cokeson pleads with James on behalf of Falder by saying that he is quite repentant. He requests the partners to take him to fill a vacancy which happens to exist in the firm. James, the senior partner, is rather unwilling to have an ex- convict in the office. But Walter feels that they ought to help Falder.

James tells Falder that he may have a chance in the office, but he must guard against two things. First, he must get rid of the notion that he is unjustly treated. But Falder states that if first offenders like him are treated differently and somebody could take care of them instead of sending them to prison, most of the confirmed jail- birds would not have been in jail at all. James, however, has his doubts about so much goodness in human nature. He tells Falder that he must put all his past behind him and build himself up a steady reputation.

Secondly, James asks Falder to give up his connections with Ruth. Unless he does so, he would not be able to keep straight. But to Falder, his love for Ruth is the only thing that he looks forward to all the time. James thinks that the reputation of the firm cannot allow him to have a clerk who is not morally strong. If Falder agrees to give up Ruth, he can come, otherwise not. However, Falder declares that they cannot give up each other. James adds that he might overlook if Falder had any chance of marrying her. Walter offers to see if their firm can manage a divorce. With James' permission, Falder beckons Ruth to come up. Ruth comes in and stands calmly by Falder. James tells her about Falder and wants her to have courage enough to give him up if she wants Falder to be taken in the office again. But Falder is not prepared to give her up. However, at James' insistence, Ruth agrees to leave Falder alone. At that moment, Falder realizes that Ruth had behaved immorally during his absence. He almost breaks down in despair.

At that moment, the detective sergeant, Wister, comes in and says that he is looking for the clerk named Falder whom he wants arrested here. He tells James and the others present that Falder has failed to report himself regularly to the police and lately he is wanted in connection with a forged reference with which he secured an employment. Cokeson tries to put him off by asking him to come some other time. James too does not show his inclination to help out Wister. But when Wister notices Falder's cap left behind on the table, he makes towards the room where Ruth and Falder are waiting.

Wister catches hold of Falder and as they go downstairs together, Falder throws himself down. His neck is broken and the dull thud of the fall is heard by James and others in the room. Ruth is about to fall in a faint and as Walter and Cokeson take care of Ruth, Sweadle rushes out and with Wister's help, brings in Falder's body to the outer office. Ruth breaks down but Cokeson holds out his hand to Ruth saying that no one would touch Falder now; he is safe with gentle Jesus.

A close look at the subject-matter is necessary in order to decide whether the title 'Justice' is appropriate for the play. The play can be seen as a commentary upon the administration of criminal law in England during Galsworthy's time. The basic issues raised are:

1. Even if the law is justly administered, does it do real justice to the criminal?

2. While the law aspires to be just to all, is a person given the deserved justice?

3. Does Falder, who is sent to prison for a period of three years, suffer more than he deserves at the hands of the harsh and unimaginative prison administration?

The solitary imprisonment administered to Falder for committing the offence of tempering a cheque is an important angle in our attempt to find an answer to the question whether Falder was dispensed the deserved justice. This whole effort is as the chaplain says, "to break the perverted will of the prisoners".

After his release from the prison, he finds that he has not been able to escape the mental agony that he suffered during his solitary imprisonment. Justice was done to him by sending him to jail. But "the rolling of the chariot wheels of justice" crushes him and along with him, his beloved Ruth.

Galsworthy brings out the social system of contemporary England which is so indifferent to the individual. In the name of giving protection to them, the system administers a kind of justice which lies at the root of the tragedy. Hence, the title is quite justified in its implications of irony concerning the mechanisms of the legal system.

ARMS & THE MAN, by G.B.Shaw

OVERVIEW OF THE PLAY:

The play unfolds in Bulgaria in 1885, towards the end of the Serbo-Bulgarian War. Raina Petkoff and her mother Catherine have received news that Raina's fiancé Sergius led a victorious cavalry charge against Serbian forces. Louka, the household maid, enters to announce that the windows must be locked, as fleeing Serbian troops are being hunted down in the streets. Later that night a Serbian officer climbs the drainpipe outside Raina's balcony and breaks into her room. Bulgarian soldiers arrive, asking to inspect the room, and Raina, overwhelmed by a moment of compassion, hides the enemy soldier behind her curtains. Louka is the only one who sees through the deception, but she only smirks and leaves in silence.

Once safe, the soldier comes out from hiding and explains he is a Swiss mercenary for the Serbian army. He admits to Raina that he does not carry cartridges for his gun, only chocolates, as these are more practical for a starving soldier. Thinking him childish, Raina offers the soldier some chocolate creams, which he devours hungrily. He explains that the cavalry charge led by Raina's fiancé Sergius was only successful as a result of dumb luck. Angered, Raina finally demands he leave, yet the Swiss mercenary claims to be too exhausted to move. Feeling pity, Raina agrees to shelter him and runs to find her mother. When the two women return, the chocolate cream soldier, as Raina calls him, has fallen asleep in her bed.

The second act begins with Nicola, an older servant, lecturing his fiancée Louka on appropriate conduct toward their employers. As they speak, Major Petkoff, Raina's father, returns from the front. He announces that the war has ended with a peace treaty, upsetting his wife Catherine who believes Bulgaria should have annexed Serbia. Shortly afterward, Raina's fiancé Sergius arrives. The once idealistic man has grown cynical, resigning from the military and complaining about the lack of honor and bravery among professional soldiers. He recounts an anecdote about a

fleeing Swiss mercenary escaping into the bedroom of a fascinated Bulgarian woman, alarming Raina and Catherine. Once alone, Raina and Sergius speak of their love for each other in reverential and somewhat ridiculous tones.

As soon as Raina leaves to get her hat, Sergius embraces Louka and complains about how exhausting his relationship with his fiancée is. Louka claims not to understand the hypocrisy of the upper class, saying that both Sergius and Raina pretend to love each other while flirting with other people. Demanding to know whom Raina has been seeing, Sergius grabs Louka and bruises her arm. Louka asks that he kiss it in apology but Sergius refuses just as Raina enters the garden. As the couple prepares to leave for a walk, Catherine calls Sergius to the library to help Major Petkoff arrange some troop movements.

Catherine and Raina discuss the significance of Sergius telling the anecdote about the escaping mercenary. To her mother's chagrin, Raina expresses a desire for Sergius to learn of her part in the story, wishing to shock his faux propriety. As Raina exits, Louka enters and announces that a Swiss officer is at the door. Captain Bluntschli, the chocolate cream soldier, has come to return the coat that was used to smuggle him out of the house. As Catherine attempts to send him away, Major Petkoff recognizes him from the peace negotiations, greets him warmly, and asks him to help coordinate Bulgarian troop movements. Raina sees him in the hallway and gasps that it is the chocolate cream soldier. Thinking quickly, she explains to her father and fiancée that she made a chocolate cream decoration in the shape of a soldier, but that Nicola has clumsily crushed it.

Later that afternoon, Captain Bluntschli makes short work of the administrative tasks. Major Petkoff wonders about the fate of his old lost coat. At Catherine's request, Nicola fetches the coat that had previously disappeared, astounding the Major. The Major, Sergius and Catherine leave to implement Bluntschli's orders, leaving the Captain alone with Raina. Raina begins posturing, complaining how morally wounded she is by having to lie for him. The Captain sees through her act and confronts her; he is the first person to see her pretentious behavior for what it is. Raina admits to behaving theatrically and suspects Bluntschli must despise her. On the contrary, Bluntschli is charmed by her posturing but cannot take it seriously. Suddenly, Bluntschli receives a telegram informing him of his father's death and his large inheritance.

Raina and Bluntschli exit as Louka and then Sergius enter. Sergius inspects Louka's arm and offers to kiss her bruise but is rejected. Louka questions his notions of bravery, arguing that anyone may be brave in battle but few are able to stand up to social expectations. She asks Sergius if he would marry someone below his station for love. Sergius claims he would but uses his engagement to Raina as an excuse. Hurt, Louka teases him with the knowledge that Bluntschli is Raina's true love.

Sergius challenges Bluntschli to a duel. Raina enters and argues with Sergius, announcing that she saw him embracing Louka. Bluntschli explains to Sergius that Raina only let him remain in her room at gunpoint. Somewhat deflated, Sergius withdraws from the duel. When Bluntschli suggests that Louka join the conversation, Sergius leaves to look for her, only to find her

eavesdropping in the hallway. Having understood that something is awry, Major Petkoff enters and demands to know who the chocolate cream soldier is. Bluntschli admits that it is he. Raina explains that she is no longer engaged to Sergius, as he loves Louka. Sergius kisses Louka's hand, committing himself to marry her. Louka's original fiancé Nicola gracefully bows out. Bluntschli follows Sergius' lead and asks for Raina's hand. The Captain's new inheritance - a successful chain of hotels - persuades Major Petkoff to agree to the marriage. Bluntschli leaves to take care of his father's estate with promises to return in a fortnight.

b) FINAL SOLUTIONS by, Mahesh Dattani

ABOUT THE PLAY:

"Final Solutions" has a powerful contemporary resonance an it addresses as issue of utmost concern to our society, i.e. the issue of communalism. The play presents different shades of the communalist attitude prevalent among Hindus and Muslims in its attempt to underline the stereotypes and clichés influencing the collective sensibility of one community against another. What distinguishes this work from other plays written on the subject is that it is neither sentimental in its appeal nor simplified in its approach.

It advances the objective candour of a social scientist while presenting a mosaic of diverse attitudes towards religious identity that often plunges the country into inhuman strife. Yet the issue is not moralised, as the demons of communal hatred are located notout in the street but deep within us.

The play moves from the partition to the present day communal riots. It probes into the religious bigotry by examining the attitudes of three generations of a middle-class Gujrati business family,Hardika, the grandmother, is obsessed with her father's murder during the partition turmoil and the betrayal by a Muslim friend, Zarine. Her son, Ramnik Gandhi, is haunted by the knowledge his fortunes were founded on a shop of Zarine's father, which was burnt down by his kinsmen.

Hardika's daughter-in-law, Aruna, lives by the strict code of the Hindu Samskar and the granddaughter, Smita, cannot allow herself a relationship with a Muslim boy. The pulls and counter-pulls of the family are exposed when two Muslim boys, Babban and Javed, seek shelter in their house on being chased by a baying Hindu mob.

Babban is a moderate while Javed is an aggressive youth. After a nightlong exchange of judgements and retorts between the characters,tolerance and forgetfulness emerge as the only possible solution of the crisis. Thus, the play becomes a timely reminder of the conflicts raging not only in India but in other parts of the world.

SUMMARY:

Although the plot of the story is modelled on the classic ratiocination stories of Doyle, there are two separate mysteries in the book, only one of which the Holmes character is able to solve by the end. The story opens with the description of a chance encounter between the old man and the young boy Linus Steinman, who, we find out moments later, is a German-Jewish refugee staying with a local Anglican priest and his family. Because the parrot sitting on the boy's shoulder is in the habit of rattling off German numbers in no obvious order — "zwei eins sieben fünf vier sieben drei" ("two one seven five four seven three") — the old man quickly deduces the boy's reason for being in England. After we are introduced to the priest, his wife, son and two lodgers sitting at dinner, we find out that the numbers may have some significance. One lodger speculates that the numbers are a military code of some kind and seeks to crack it. The other lodger, a Mr. Shane, from the British foreign office, pretends at dinner not to even notice the bird, which the family and Linus call Bruno. But because everyone else around the table is intensely interested in it, Shane's behavior only heightens their suspicions.

After Mr. Shane is found murdered the next morning and the parrot Bruno has gone missing, the local inspector, Michael Bellows, recruits the old man to help solve the mystery. The old man, his interest piqued by the boy's strange attachment to his bird, agrees only to find the parrot — "If we should encounter the actual murderer along the way, well, then it will be so much the better for you," he says (ending chapter 3). Although the Holmes character succeeds in that endeavor, neither he nor anyone else in the book discovers what the true meaning of the numbers are, though there are clear implications of a solution. One hint, given by the author Chabon, is that the numbers are often recited in the presence of trains: the implicit suggestion is that they are the numbers of the cars and indeed, the parrot calls it "the train song." In the final scene, the boy is reunited with the parrot in a train station and starts to speak at last as he watches a military transport train pass, reciting "sieben zwei eins vier drei," "sieben acht vier vier fünf." Another hint, revealed in the book's penultimate chapter, which is told from the perspective of Bruno, is that the boy and his parrot used to visit an Obergruppenführer while still in Germany, where it is implied he learned the song. But the biggest hint of all is the book's title and the boy's dumbness. Added to that, neither the parrot nor the boy ever voiced the German numeral "null."

c) DRAUPADI, by Mahashweta Devi

ABSTRACT

The aim of the researcher is to identify dalit feminist consciousness in Gayatri Chakravorty Spivak’s translation of Mahasweta Devi’s “Draupadi.” Devi’s narrative focuses on characters that exemplify the twin problems of caste and gender; and explores a stinging indictment of destruction of tribal insurgents. The recognition of caste as not just a retrograde past but an oppressive past reproduced as forms of inequality in modern society requires that we integrate questions of caste with those of class and gender. She presents politics of domination, caste oppression, material violence, inhuman torture, repressive discourse, overarching hegemony,

historical marginalization, and engineered exclusion; and liberates conventional epistemological bind. She serves to 'sterilize' the master narrative of nation's past off the rural class/ gender/ subaltern presence. Her narrative comprises ideological/ nationalist, and colonizing/ decolonizing frames. She releases the heterogeneity and restores some of its historical and geographical nomenclature. In "Draupadi," the low-caste and the female gender act as the weapon for counter-offense and counter-resistance. Spivak's intension is to effect an epistemic transformation of the concept of the monolithic 'third-world woman' by drawing attention to the mechanics of investigating the subaltern consciousness. With the nexus of theory and politics of Spivak's 'gendered subalternity,' Rinehart's 'gendered consciousness,' Gramsci's 'cultural hegemony,' Foucault's 'power dynamics,' and Hegel's 'double negation,' "Draupadi" is examined circumstantially.

OVERVIEW

"In the beginning there was no centre. In the beginning there was no margin. In the beginning there was no margin, for there was no centre. If there was no margin, how did centre come into existence? Then what existed before margin and centre? There must have been something, for there can never be nothing".– Rig Veda.

Mahasweta Devi's "Draupadi," displays the discourse of the dispossessed and triggers the traumatizing experiences of male voyeurism and chauvinism that indulge for a national debate of dalit feminist narrative. Devi constructs the pretensions of civil society to transparency, equity, and justice; and deliberations of social reality to margin and centre in the limelight of double polarization. Culler's "difference by differing" with sexual identity and Anderson's "pluralisation of difference" across race, gender, ethnicity, class, and sexuality are suggested in "Draupadi." Spivak asserts, "Between patriarchy and imperialism, subject-constitution and object-formation, the figure of the woman disappears, not into a pristine nothingness, but a violent shuttling which is the displaced figuration of the 'third-world woman' caught between tradition and modernisation. There is no space from which the sexed subaltern can speak. The subaltern [as woman] cannot speak. There is no virtue in global laundry lists with woman as a pious. Representation has not withered away".

"Draupadi" depicts how a marginalized tribal woman derives strength from her body and her inner feminine core to fight against her marginality. Here, the woman's body becomes an instrument of vicious denunciation of patriarchy and hegemony which are ironical, counter-canonical, anti-literary, and contradictory. "Thus "woman" is caught between the interested "normalization" of capital and the regressive "envy" of the colonized male?" The curtailment of women's voice is a consequence of the paternalistic society's discipline and it institutionalizes female agency. The representation of gendered subaltern as an "empty space," a "blank agency," and the "sexed specificity of the female body" that leadsto the problematic conclusion: colonialism in collusion with (native) patriarchy effects complete erasure of the (subaltern) woman. The gendered female is rendered 'as mute as ever' and 'is more deeply in shadow' when the epistemic violence mingles with advanced civilization, and rejects 'tolerance' for their

empowerment. In "Draupadi," the victim's body is brutally abused with unutterable ugliness since she speaks with her body, and the biting irony confounds the traditional polarization of cultural (caste and class) and biological (gender) aspects. Beauvoir says, "If the respect or fear inspired by woman prevents the use of violence towards her, then the muscular superiority of the male is no source of power"

"Draupadi" embodies 'hegemonic masculinity,' 'female emancipation,' 'double colonization,' 'societal power relations,' 'centre-periphery articulation,' 'master-slave dialectics,' and 'gender-bender dynamics.' In "Draupadi," the erotic object transforms into an object of torture and revenge where the line between hetero-sexuality and gender-violence conjures. These contextual factors account for the quantity of women's politicization and the quality of women's political life. "Draupadi" offers the trivial shifts from "customs and traditions" to "barbaric," then to "violence against women," and finally to "rights violation". Rinehart's penta-stages of "passive acceptance," "revelation," "embeddedness," "synthesis," and "active commitment" contribute to dalit feminist consciousness. To Reid and Nuala, gendered consciousness characterizes "sense of interdependence and shared fate with other women," "recognition of women's low status and power with men," "attribution of power differentials to institutionalized sexism," and "improvement of women's position in society" .

Devi asserts, " the human being is not made for the sake of politics". She declares, "I was writing her to be read, and I was certain not claiming to give her a voice. So if I'm read as giving her a voice, there again this is a sort of transaction of the positionality between the Western feminist listener who listens to me, and myself, signified as a Third World informant. What we do toward the texts of the oppressed is very much dependent upon where we are". Spivak contextualizes 'the conflictual topos of language' and insists the failure of condemnation: "power, hierarchy, and responsibility for other futures, other contexts, other beings". "Whose critiques do we especially try to understand and respond to; whom do we read; where do we look for ways of thinking that might wake us up?".

"Draupadi"is a tribalized reincarnation of mythical Draupadi, and the tale of 'rape-murder-lockup torture' in police custody. It captures the torturing experience of Santhal tribe, DraupadiMejhen with multi-faced personality. "Draupadi is the name of the central character. She is introduced to the reader between two uniforms and between two versions of her name. Dopdi and Draupadi. It is either that as a tribal she cannot pronounce her own Sanskrit name Draupadi, or the ancient Draupadi . They have no right to heroic Sanskrit names". She cannot pronounce even her name because of the dalit tongue and dialect. "The story is a moment caught between two deconstructive formulas: on the one hand, a law that is fabricated with a view to its own transgression, on the other, the undoing of the binary opposition between the intellectual and the rural struggles . The tale exposes the dalit feminist consciousness in its initial exposition itself: "What's this, a tribal called Dopdi? The list of names I brought has nothing like it! How can anyone have an unlisted name?" Dopdi and Dulna are married couple, active workers in Naxalbari movement and fights for their prime necessities. After Dulna's murder, Draupadi is brutally molested by the policemen in their attempts to extract information about the fugitives.

Senanayak, the army chief, with Keatsian 'negative capability' torments Dopdi. As a counter-offense, she tears her clothes and makes herself naked as a figure of refusal in front of Police authorities, displaying her crushed body. Rajan comments, "Dopdi does not let her nakedness shame her, the horror of rape diminish her. It is simultaneously a deliberate refusal of a shared sign-system (the meanings assigned to nakedness, and rape: shame, fear, loss) and an ironic deployment of the same semiotics to create disconcerting counter effects of shame confusion and terror in the enemy" . She is at a distance from the political activism of the male and the gradual emancipation of the bourgeois female. Her confidence and courage dare to look at the public without any hesitation. She laughs weirdly with the blind acceptance of humiliation, corruption, molestation, and disentangled chain of patriarchal shame. Her stubborn refusal to cover herself humiliates the male officers. She is defiant with self protest, charms with counter-resistance and retaliation, and celebrates the 'woman-power' with honour, diversity and resolution. She experiences the subaltern woman within the context of historical juncture of 'interregnum' where woman are concerned with its connotation of violation, imposition of force, destruction of psyche, and alignment of victimization. As Draupadi's revenge excerpts: "What's the use of clothes? You can strip me, but how can you clothe me again? Are you a man?" Her legitimized pluralization (victimized person), in singularity (subaltern woman) is used to demonstrate male glory. Spivak says, "Mahasweta's story questions this 'singularity' by placing Dopdi first in a comradely, activist, monogamous marriage and then in a situation of multiple rape". "Draupadi" shares the cultural memories with 'secret encounters with singular figures,' but its 'subject-representation and constitution is deliberately palimpsest and contrary".

The story culminates into Draupadi's postscript area of lunar flux and sexual difference in challenging man to (en) counter as un/ mis- recorded objective historical monument. Here, the female nudity questions the enemy: "negation of negation", and thus, Hegel's double negation is superimposed. She projects as an 'unarmed target' and a 'terrifying super object' with her horrifying gestures: "There isn't a man here that I should be ashamed… What more can you do?" Dopdi's action is "a visible explosion of unorthodox sexualities that has become apparent, at least after a general review of the facts" which becomes a repressive response to the superior power . Michel Foucault entitles it as 'instrument- effect' which explains the reverse mode of protest against perversion of [male] power. It also imposes that Dopdi's consumed body becomes an instrumental strike back against the suppression of superior authority."Draupadi" serves an exemplum for the dictum: "your sex is a terrible wound" . Here, the female body acts as a weapon for resistance, the female body speaks as a sword for identity,and the female body epitomizes as a synecdoche for survival. The tale explores the conflicts between remnant colonial morality and subalternity. From the root epic Mahabharatha onwards, the brutal cannibalistic exploitation and molestation begin with Draupadi'spublic unrobing. "Draupadi" is a reincarnation of mythical Draupadi, as both parallels the inherent semiotics of subjugation. As Hira Bansodearticulates the spirit of dalit women who are in condemnedstate of celebrated mythical figures like 'Slaves.'

Bansode enumerates with a concluding epigraph that, "To be born a woman is unjust". It shows the discourse of the discontent and the politics of difference among dalit feminist perspective.

Gramsci's cultural hegemony represents the dominant groups in society (ruling class), that maintain dominance by securing the 'spontaneous consent' of subordinate groups (working class), through negotiated construction of political and ideological consensus which incorporates both dominant and dominated groups. Foucault states, "power is everywhere" and "comes from everywhere," but it is diffused and embodied in scientific discourse, knowledge, "meta-power," and "regimes of truth" in constant flux pervades in society .

The quintessential question Can the Subaltern (as women) speak?indoctrinates the female subjectivity and problematizes the lower-caste women through the blind spot of the stereotypical version "Draupadi." "Spivak questions the subaltern's ability to speak 'for herself' (without being a mouthpiece) and suggests that if the subaltern is speaking (given a voice) she is not a subaltern anymore and that the terms determined for her speech (the space opened for her to speak) will affect what is going to be said and how her voice will be heard. Therefore, she is suspicious of attempts to retrieve a pure form of subaltern consciousness and suggests that the effort to produce a transparent or authentic (and heroic) subaltern is a desire of the intellectual to be benevolent or progressive that ends up silencing the subaltern once again". Spivak's conviction of 'speaking about' and 'speaking for' the female gender manifests the elite mainstream intrusion thwarted in "Draupadi."Devi's "Draupadi" illustrates P. S. Rege's poetical dictum since the female self and body connote the abjection:

"What a degradation of womanhood,
what a parody of human good!
She makes a hollow pleasure of sexual pain,
a sex complex, a surreptitious parade!"

d) THE TRIAL OF BHAGAT SINGH

Backdrop

Bhagat Singh is one of India's greatest freedom fighters. The youth of India were inspired by Bhagat Singh's call to arms and enthused by the defiance of the army wing of the Hindustan Socialist Republican Association to which he, Sukhdev and Rajguru, belonged. His call, Inquilab Zindabad! became the war-cry of the fight for freedom.

On April 8, 1929, Bhagat Singh and B.K. Dutt threw a bomb in the Central Legislative Assembly "to make the deaf hear" as their leaflet described the reason for their act. As intended, nobody was hurt by the explosion as Bhagat Singh had aimed the bomb carefully, to land away from the seated members, on the floor. The bomb, deliberately of low intensity, was thrown to protest the repressive Public Safety Bill and Trades Dispute Bill and the arrest of 31 labour leaders in March 1929. Then a shower of leaflets came fluttering down from the gallery like a shower of leaves

and the members of the Assembly heard the sound of, 'Inquilab Zindabad!' and 'Long live Proletariat!' rent the air.

Bhagat Singh and B.K.Dutt let themselves be arrested, even when they could have escaped, to use their court appearances as a forum for revolutionary propaganda to advocate the revolutionaries' point of view and, in the process, rekindle patriotic sentiments in the hearts of the people. Bhagat Singh surrendered his automatic pistol, the same one he had used to pump bullets into Saunder's body, knowing fully well that the pistol would be the highest proof of his involvement in the Saunders' case.

The authorities believed that in Bhagat Singh they had caught a big fish and that he was the mastermind behind all revolutionary activity in India. The government was, however, intrigued by the two revolutionaries giving themselves up so easily. The British did not want to take any chances, so even the summons to the two revolutionaries were delivered to them in jail.

Trial

The style and format of the writing in the handbills struck British intelligence as suspiciously familiar. The format and style in these handbills was similar to the style and format of the handwritten posters that announced the murder of Saunders and which had been plastered on the city's walls. The British began to suspect that Bhagat Singh was one of Saunder's killers. He was singled out as the author of the text on the leaflets as well as on the posters. Bhagat Singh was charged with attempt to murder under section 307 of the Indian Penal Code. Asaf Ali, a member of the Congress Party was his lawyer.

The Trial started on 7 May, 1929. The Crown was represented by the public prosecutor Rai Bahadur Suryanarayan and the trial magistrate was a British Judge, P.B Pool. The manner in which the prosecution presented its case left Bhagat Singh in no doubt that the British were out to nail him. The prosecution's star witness was Sergeant Terry who said that a pistol had been found on Bhagat Singh's person when he was arrested in the Assembly. This was not factually correct because Bhagat Singh had himself surrendered the pistol while asking the police to arrest him. Even the eleven witnesses who said that they had seen the two throwing the bombs seemed to have been tutored.

Some of the questions asked in court were:

Judge: 'Were you present in the Assembly on the 8th of April, 1929?'

Bhagat Singh: 'As far as this case is concerned, I feel no necessity to make a statement at this stage. When I do, I will make the statement.'

Judge: 'When you arrived in the court, you shouted, "Long Live Revolution!". What do you mean by it?'

As if it had already made up its mind, the court framed charges under Section 307 of the Indian Penal Code and Section 3 of the Exposive Substances Act. Bhagat Singh and Dutt were accused of throwing bombs 'to kill or cause injuries to the King Majesty's subjects'. The magistrate committed both of the revolutionaries' to the sessions court, which was presided over by Judge Leonard Middleton. The trial started in the first week of June, 1929. Here also, Bhagat Singh and Dutt were irked by the allegation that they had fired shots from a gun. It was apparent that the government was not limiting the case to the bombs thrown in the Assembly. It was introducing extraneous elements to ferret out more information about the revolutionary party and its agenda.

However, Judge Leonard Middleton too swallowed the prosecution story. He accepted as proof of the verbal testimony that the two had thrown the bombs into the Assembly Chamber and even said that Bhagat Singh fired from his pistol while scattering the leaflets there. The court held that both Bhagat Singh and Dutt were guilty under Section 3 of the Explosive Substances Act, 1988 and were sentenced to life imprisonment. Judge Middleton rules that he had no doubt that the defendant's acts were 'deliberate' and rejected the plea that the bombs were deliberately low-intensity bombs since the impact of the explosion had shattered the wood of one and a half inch thickness in the Assembly.

The two were persuaded to file an appeal which was rejected and they were sent for fourteen years. The judge was in a hurry to close the case and claimed that the police had gathered 'substantial evidence' against Bhagat Singh and that he was charged with involvement in the killings of Saunders and Head Constable Chanan Singh and that the authorities had collected nearly 600 witnesses to establish their charges against him which included his colleagues, Jai Gopal and Hans Raj Vohra turning government approvers.

Bhagat Singh was sent to Mianwali Jail and Dutt to Borstal Jail in Lahore and were put on the same train though in different compartments on 12th March, 1930 but after requesting the officer on duty to allow them to sit together for some distance of the journey, Bhagat Singh conveyed to Dutt that he should go on a hunger strike on 15th June and that he would do the same in Mianwali Jail. When the Government realized that this fast had riveted the attention of the people throughout the country, it decided to hurry up the trial, which came to known as the Lahore Conspiracy Case. This trial started in Borstal Jial, Lahore, on 10 July, 1929. Rai Sahib Pandit Sri Kishen, a first class magistrate, was the judge for this trial. He earned the title of Rai Sahib for loyal service to the British. Bhagat Singh and twenty-seven others were charged with murder, conspiracy and wagering war against the King.

The revolutionaries' strategy was to boycott the proceedings. They showed no interest in the trial and adopted an attitude of total indifference. They did not have any faith in the court and realized that the court had already made up its mind. A handcuffed Bhagat Singh was still on hunger strike and had to be brought to the court in a stretcher and his weight had fallen by 14 pounds, from 133 to 119. The Jail Committee requested him to give up their hunger strike and finally it was his father who had his way and it was on the 116th day of his fast, on October 5, 1929 that he gave up his strike surpassing the 97 day world record for hunger strikes which set by an Irish revolutionary.

Bhagat Singh started refocusing on his trial. The crown was represented by the government advocate C.H.Carden-Noad and was assisted by Kalandar Ali Khan, Gopal Lal, and Bakshi Dina Nath who was the prosecuting inspector. The accused were defended by 8 different lawyers. The court recorded an order prohibiting slogans in the courtroom. The government advocate filed orders by the government sanctioning the prosecution under the Explosive Substances Act and Sections 121, 121 A, 122 and 123 of the Penal Code relating to sedition.

When Jai Gopal turned approver, Verma, the youngest of the accused, hurled a slipper at him. After this incident, the accused were subjected to untold slavery. The case built by the prosecution was that a revolutionary conspiracy had been hatched as far as back as September, 1928, two years before the murder of Saunders. The government alleged that various revolutionary parties had joined together to forge one organization in 1928 itself to operate in the north and the north-east of India, from Lahore to Calcutta.

The case proceeded at a snails pace and hence the government got so exasperated that it approached the Lahore High Court for directions to the magistrate. A division bench of the Lahore High Court dismissed the application of Carden-Noad. Through March, 1930, the proceedings were relatively smooth. The magistrate could not make any headway without the cooperation of the undertrials. On1 May, 1930, the viceroy, Lord Irwin, promulgated an Ordinance to set up a tribunal to try this case. The Ordinance, LCC Ordinance No.3 of 1930, was to put an end to the proceedings pending in the magistrate's court. The case was transferred to a tribunal of three high court judges without any right to appeal, except to the Privy Council.

The case opened on 5 May 1930 in the stately Poonch House. Rajguru challenged the very constitution of the tribunal and said that it was illegal ultra vires. According to him, the Viceroy did not have the power to cut short the normal legal procedure. The Government of India Act, 1915, authorized the Viceroy to promulgate an Ordinance to set up a tribunal but only when the situation demanded whereas now there was no breakdown in the law and order situation. The

tribunal however, ruled that the petition was 'premature'. Carden-Noad, the government advocate elaborated on the charges which included dacoities, robbing money from banks and the collection of arms and ammunition. The evidence of G.T. Hamilton Harding, senior superintendent of police, took the court by surprise as he said that he had filed the FIR against the accused under the instructions of the chief secretary to the government of Punjab and he did not know the facts of the case. Then one of the accused J.N Sanyal said that they were not the accused but the defenders of India's honour and dignity.

There were five approvers in total put of which Jai Gopal, Hans Raj Vohra and P.N.Ghosh had been associated with the HRSA for a long time. It was on their stories that the prosecution relied. The tribunal depended on Section 9 (1) of the Ordinance and on 10th July 1930, issued an order, and copies of the framed charges were served on the fifteen accused in jail, together with copies of an order intimating them that their pleas would be taken on the charges the following day. This trial was a long and protracted one, beginning on 5 May, 1930, and ending on 10 September, 1930. It was a one-sided affair which threw all rules and regulations out of the window. Finally the tribunal framed charges against fifteen out of the eighteen accused. The case against B.K.Dutt was withdrawn as he had already been sentenced to transportation for life in the Assembly Bomb Case.

On 7 October 1930, about three weeks before the expiry of its term, the tribunal delivered its judgement, sentencing Bhagat Singh, Sukhdev and Rajguru to death by hanging. Others were sentenced to transportation for life and rigorous imprisonment. This judgement was a 300-page one which went into the details of the evidence and said that Bhagat Singh's participation in the Saunders' murder was the most serious and important fact proved against him and it was fully established by evidence. The warrants for the three were marked with a black border.

The undertrials of the Chittagong Armoury Raid Case sent an appeal to Gandhiji to intervene. A defence committee was constituted in Punjab to file an appeal to the Privy Council against the sentence. Bhagat Singh did not favour the appeal but his only satisfaction was that the appeal would draw the attention of people in England to the existence of the HSRA. In the case of Bhagat Singh v. The King Emperor, the points raised by the appellant was that the ordinance promulgated to constitute a special tribunal for the trial was invalid. The government argued that Section 72 of the Government of India Act, 1915 gave the governor-general unlimited powers to set up a tribunal. Judge Viscount Dunedin who read the judgment dismissed the appeal. Thus from the lower court to the tribunal to the Privy Council, it was a preordained judgement in flagrant violation of all tends of natural justice and a fair and free trial.

e) BIBLIOGRAPHY OF MARTIN LUTHER

Theologian Martin Luther forever changed Christianity when he began the Protestant Reformation in 16th-century Europe.

Synopsis

Born in Germany in 1483, Martin Luther became one of the most influential figures in Christian history when he began the Protestant Reformation in the 16th century. He called into question some of the basic tenets of Roman Catholicism, and his followers soon split from the Roman Catholic Church to begin the Protestant tradition.

Early Life

Martin Luther was born on November 10, 1483, in Eisleben, Saxony, in modern southeast Germany. His parents, Hans and Margarette Luther, were of peasant linage, but Hans had some success as a miner and ore smelter. In 1484, the family moved to nearby Mansfeld, where Hans held ore deposits.

Hans Luther knew that mining was a tough business and wanted his promising son to have better and become a lawyer. At age seven, Martin Luther entered school in Mansfeld. At 14, he went to north to Magdeburg, where he continued his studies. In 1498, he returned to Eisleben and enrolled in a school, studying grammar, rhetoric and logic. He later compared this experience to purgatory and hell.

In 1501, Martin Luther entered the University of Erfurt, where he received a Master of Arts degree (in grammar, logic, rhetoric and metaphysics). At this time, it seemed he was on his way to becoming a lawyer. However, in July 1505, Luther had a life-changing experience that set him on a new course. Caught in a horrific thunderstorm where he feared for his life, Luther cried out to St. Anne, the patron saint of miners, “Save me, St. Anne, and I’ll become a monk!” The storm subsided and he was saved. Most historians believe this was not a spontaneous act, but an idea already formulated in Luther’s mind. The decision to become a monk was difficult and greatly disappointed his father, but he felt he must keep a promise. Luther was also driven by fears of hell and God’s wrath, and felt that life in a monastery would help him find salvation.

Spiritual Anguish and Enlightenment

The first few years of monastery life were difficult for Martin Luther, as he did not find the religious enlightenment he was seeking. A mentor told him to focus his life exclusively on Christ and this would later provide him with the guidance he sought. At age 27, he was given the opportunity to be a delegate to a church conference in Rome. He came away more disillusioned, and very discouraged by the immorality and corruption he witnessed there among the Catholic priests. Upon his return to Germany, he enrolled in the University of Wittenberg in an attempt to suppress his spiritual turmoil. He excelled in his studies and received a doctorate, becoming a professor of theology at the university.

Through his studies of scripture, Martin Luther finally gained religious enlightenment. Beginning in 1513, while preparing lectures, Luther read Psalm 22, which recounts Christ's cry for mercy on the cross, a cry similar to his own disillusionment with God and religion. Two years later, while preparing a lecture on Paul's Epistle to the Romans, he read, "The just will live by faith." He dwelled on this statement for some time. Finally, he realized the key to spiritual salvation was not to fear God or be enslaved by religious dogma but to believe that faith alone would bring salvation. This period marked a major change in his life and set in motion the Reformation.

Rejection of the Roman Catholic Church

In 1517, Pope Leo X announced a new round of indulgences to help build St. Peter's Basilica. On October 31, 1517, an angry Martin Luther nailed a sheet of paper with 95 theses on the university's chapel door. Though he intended these to be discussion points, the Ninety-Five Theses laid out a devastating critique of the indulgences as corrupting people's faith. Luther also sent a copy to Archbishop Albert Albrecht of Mainz, calling on him to end the sale of indulgences. Aided by the printing press, copies of the Ninety-Five Theses spread throughout Germany within two weeks and throughout Europe within two months.

The Church eventually moved to stop the act of defiance. In October 1518, at a meeting with Cardinal Thomas Cajetan in Augsburg, Martin Luther was ordered to recant his Ninety-Five Theses by the authority of the pope. Luther said he would not recant unless scripture proved him wrong. He went further, stating that he didn't consider the papacy had the authority to interpret scripture. The meeting ended in a shouting match and initiated his ultimate excommunication from the Church.

Throughout 1519, Martin Luther continued to lecture and write in Wittenberg. In June and July of that year he publicly declared that the Bible did not give the pope the exclusive right to interpret scripture, which was a direct attack on the authority of the papacy. Finally, in 1520, the pope had had enough and on June 15 issued an ultimatum threatening Luther with excommunication. On December 10, 1520, Luther publicly burned the letter.

Excommunication

In January 1521, Martin Luther was officially excommunicated from the Roman Catholic Church. In March, he was summoned before the Diet of Worms, a general assembly of secular authorities. Again, Luther refused to recant his statements, demanding he be shown any scripture that would refute his position. There was none. On May 8, 1521, the council released the Edict of Worms, banning Luther's writings and declaring him a "convicted heretic." This made him a condemned and wanted man. Friends helped him hide out at the Wartburg Castle. While in seclusion, he translated the New Testament into the German language, to give ordinary people the opportunity to read God's word.

Though still under threat of arrest, Martin Luther returned to Wittenberg Castle Church, in Eisenach, in May 1522. Miraculously, he was able to avoid capture and began organizing a new church, Lutheranism. He gained many followers and got support from German princes. When a peasant revolt began in 1524, Luther denounced the peasants and sided with the rulers, whom he depended on to keep his church growing. Thousands of peasants were killed, but Luther's church grew over the years. In 1525, he married Katharina von Bora, a former nun who had abandoned the convent and taken refuge in Wittenberg. Together, over the next several years, they had six children.

Later Years

From 1533 to his death in 1546, Martin Luther served as the dean of theology at University of Wittenberg. During this time he suffered from many illnesses, including arthritis, heart problems and digestive disorders, and the physical pain and emotional strain of being a fugitive might have been reflected in his writings. Some works contained strident and offensive language against several segments of society, particularly Jews and Muslims. During a trip to his hometown of Eisleben, he died on February 18, 1546, at age 62.

Legacy

Martin Luther is one of the most influential and controversial figures in the Reformation movement. His actions fractured the Roman Catholic Church into new sects of Christianity and set in motion reform within the Church. A prominent theologian, his desire for people to feel closer to God led him to translate the Bible into the language of the people, radically changing the relationship between church leaders and their followers.

BIBLIOGRAPHY OF NELSON MANDELA

Introduction

Rolihlahla Mandela was born into the Madiba clan in the village of Mvezo, Transkei, on 18 July 1918. His mother was Nonqaphi Nosekeni and his father was Nkosi Mphakanyiswa Gadla Mandela, principal counsellor to the Acting King of the Thembu people, Jongintaba Dalindyebo. In 1930, when he was 12 years old, his father died and the young Rolihlahla became a ward of Jongintaba at the Great Place in Mqhekezweni .

Hearing the elders' stories of his ancestors' valour during the wars of resistance, he dreamed also of making his own contribution to the freedom struggle of his people.

He attended primary school in Qunu where his teacher Miss Mdingane gave him the name Nelson, in accordance with the custom to give all school children "Christian" names.

He completed his Junior Certificate at Clarkebury Boarding Institute and went on to Healdtown, a Wesleyan secondary school of some repute, where he matriculated.

Nelson Mandela began his studies for a Bachelor of Arts degree at the University College of Fort Hare but did not complete the degree there as he was expelled for joining in a student protest.

On his return to the Great Place at Mqhekezweni the King was furious and said if he didn't return to Fort Hare he would arrange wives for him and his cousin Justice. They ran away to Johannesburg instead, arriving there in 1941. There he worked as a mine security officer and after meeting Walter Sisulu, an estate agent, he was introduced to Lazer Sidelsky. He then did his articles through a firm of attorneys, Witkin Eidelman and Sidelsky.

He completed his BA through the University of South Africa and went back to Fort Hare for his graduation in 1943.

Meanwhile he began studying for an LLB at the University of the Witwatersrand. By his own admission he was a poor student and left the university in 1952 without graduating. He only started studying again through the University of London after his imprisonment in 1962 but also did not complete that degree.

In 1989, while in the last months of his imprisonment, he obtained an LLB through the University of South Africa. He graduated in absentia at a ceremony in Cape Town.

Entering politics

Nelson Mandela, while increasingly politically involved from 1942, only joined the African National Congress in 1944 when he helped to form the ANC Youth League.

In 1944 he married Walter Sisulu's cousin Evelyn Mase, a nurse. They had two sons, Madiba Thembekile "Thembi" and Makgatho and two daughters both called Makaziwe, the first of whom died in infancy. He and his wife divorced in 1958.

Nelson Mandela rose through the ranks of the ANCYL and through its efforts, the ANC adopted a more radical mass-based policy, the Programme of Action in 1949.

In 1952 he was chosen at the National Volunteer-in-Chief of the Defiance Campaign with Maulvi Cachalia as his deputy. This campaign of civil disobedience against six unjust laws was a joint programme between the ANC and the South African Indian Congress. He and 19 others were charged under the Suppression of Communism Act for their part in the campaign and sentenced to nine months hard labour, suspended for two years.

A two-year diploma in law on top of his BA allowed Nelson Mandela to practice law, and in August 1952 he and Oliver Tambo established South Africa's first black law firm, Mandela and Tambo.

At the end of 1952 he was banned for the first time. As a restricted person he was only permitted to watch in secret as the Freedom Charter was adopted in Kliptown on 26 June 1955.

The Trial

Nelson Mandela was arrested in a countrywide police swoop on 5 December 1955, which led to the 1956 Treason Trial. Men and women of all races found themselves in the dock in the marathon trial that only ended when the last 28 accused, including Mandela were acquitted on 29 March 1961.

On 21 March 1960 police killed 69 unarmed people in a protest in Sharpeville against the pass laws. This led to the country's first state of emergency and the banning of the ANC and the Pan Africanist Congress on 8 April. Nelson Mandela and his colleagues in the Treason Trial were among thousands detained during the state of emergency.

During the trial Nelson Mandela married a social worker, Winnie Madikizela, on 14 June 1958. They had two daughters, Zenani and Zindziswa. The couple divorced in 1996.

Days before the end of the Treason Trial Nelson Mandela travelled to Pietermaritzburg to speak at the All-in Africa Conference, which resolved that he should write to Prime Minister Verwoerd requesting a national convention on a non-racial constitution, and to warn that should he not agree there would be a national strike against South Africa becoming a republic. After he and his colleagues were acquitted in the Treason Trial Nelson Mandela went underground and began planning a national strike for 29, 30 and 31 March.

In the face of massive mobilisation of state security the strike was called off early. In June 1961 he was asked to lead the armed struggle and helped to establish *Umkhonto weSizwe* (Spear of the Nation) which launched on 16 December 1961 with a series of explosions.

On 11 January 1962, using the adopted name David Motsamayi, Nelson Mandela secretly left South Africa. He travelled around Africa and visited England to gain support for the armed struggle. He received military training in Morocco and Ethiopia and returned to South Africa in July 1962. He was arrested in a police roadblock outside Howick on 5 August while returning from KwaZulu-Natal where he had briefed ANC President Chief Albert Luthuli about his trip.

He was charged with leaving the country without a permit and inciting workers to strike. He was convicted and sentenced to five years' imprisonment which he began serving in the Pretoria Local Prison. On 27 May 1963 he was transferred to Robben Island and returned to Pretoria on 12 June. Within a month police raided Liliesleaf, a secret hide-out in Rivonia used by ANC and Communist Party activists, and several of his comrades were arrested.

On 9 October 1963 Nelson Mandela joined ten others on trial for sabotage in what became known as the Rivonia Trial. While facing the death penalty his words to the court at the end of his famous 'Speech from the Dock' on 20 April 1964 became immortalized.

On 11 June 1964 Nelson Mandela and seven other accused: Walter Sisulu, Ahmed Kathrada, Govan Mbeki, Raymond Mhlaba, Denis Goldberg, Elias Motsoaledi and Andrew Mlangeni were convicted and the next day were sentenced to life imprisonment. Denis Goldberg was sent to Pretoria Prison because he was white, while the others went to Robben Island.

Nelson Mandela's mother died in 1968 and his eldest son Thembi in 1969. He was not allowed to attend their funerals.

On 31 March 1982 Nelson Mandela was transferred to Pollsmoor Prison in Cape Town with Sisulu, Mhlaba and Mlangeni. Kathrada joined them in October. When he returned to the prison in November 1985 after prostate surgery Nelson Mandela was held alone. Justice Minister Kobie Coetsee visited him in hospital. Later Nelson Mandela initiated talks about an ultimate meeting between the apartheid government and the ANC.

Release from prison

On 12 August 1988 he was taken to hospital where he was diagnosed with tuberculosis. After more than three months in two hospitals he was transferred on 7 December 1988 to a house at Victor Verster Prison near Paarl where he spent his last 14 months of imprisonment. He was released from its gates on Sunday 11 February 1990, nine days after the unbanning of the ANC and the PAC and nearly four months after the release of his remaining Rivonia comrades. Throughout his imprisonment he had rejected at least three conditional offers of release.

Nelson Mandela immersed himself in official talks to end white minority rule and in 1991 was elected ANC President to replace his ailing friend Oliver Tambo. In 1993 he and President FW de Klerk jointly won the Nobel Peace Prize and on 27 April 1994 he voted for the first time in his life.

President

On 10 May 1994 he was inaugurated South Africa's first democratically elected President. On his 80th birthday in 1998 he married Graça Machel, his third wife.

True to his promise Nelson Mandela stepped down in 1999 after one term as President. He continued to work with the Nelson Mandela Children's Fund he set up in 1995 and established the Nelson Mandela Foundation and The Mandela Rhodes Foundation.

In April 2007 his grandson Mandla Mandela was installed as head of the Mvezo Traditional Council at a ceremony at the Mvezo Great Place.
Nelson Mandela never wavered in his devotion to democracy, equality and learning. Despite terrible provocation, he never answered racism with racism. His life is an inspiration to all who are oppressed and deprived; and to all who are opposed to oppression and deprivation.

He died at his home in Johannesburg on 5 December 2013.