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Justice at Cross Roads – A Critical Analysis of the Functioning of the Indian Judicial System and the Need for an Alternative

By Bittoo Rani

Abstract- Though the founding fathers of the Indian Constitution accorded 'justice' the highest pedestal, higher than other notions of liberty, equality and fraternity but recent decades has raised serious concerns about the efficacy and accessibility of the Indian judicial system. The ability of the Indian judiciary to deliver speedy and affordable justice has come under scrutiny. Evidences suggest that the system has failed to stand the test of confidence, reliability and dependency that citizens' so heavily demand. Critics comment that judicial accountability and responsibility are on the wane. An active judiciary as one of the strongest pillars of Indian democracy, today, is beset with unfathomable problems. The most pestiferous and malignant malice range from mounting arrears, delay in disposal of cases, litigation boom, inaccessibility of courts and above all the rising cost of justice.

Through this article, I make a humble attempt to make sincere introspection into the functional distortions of the Indian judicial system and suggest remedial measures as espoused from time to time by legal luminaries, jurists and academics alike.

Keywords: access to justice alternative dispute resolution, adjudication, arbitration, disputant, docketexplosion, indian judicial system, litigation, mediation.

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Justice at Cross Roads – A Critical Analysis of the Functioning of the Indian Judicial System and the Need for an Alternative

Bittoo Rani

Abstract- Though the founding fathers of the Indian Constitution accorded 'justice' the highest pedestal, higher than other notions of liberty, equality and fraternity but recent decades has raised serious concerns about the efficacy and accessibility of the Indian judicial system. The ability of the Indian judiciary to deliver speedy and affordable justice has come under scrutiny. Evidences suggest that the system has failed to stand the test of confidence, reliability and dependency that citizens' so heavily demand. Critics comment that judicial accountability and responsibility are on the wane. An active judiciary as one of the strongest pillars of Indian democracy, today, is beset with unfathomable problems. The most pestiferous and malignant malice range from mounting arrears, delay in disposal of cases, litigation boom, inaccessibility of courts and above all the rising cost of justice.

Through this article, I make a humble attempt to make sincere introspection into the functional distortions of the Indian judicial system and suggest remedial measures as espoused from time to time by legal luminaries, jurists and academics alike.

This paper is divided into two sections; the first critically analyses the shortcomings of the Indian judicial system while in the second I have attempted to highlight the need for ADR (Alternative Dispute Resolution) mechanism and its popularity in the Indian context.

This piece of writing is an extract of the larger empirical work (during 2009-14), undertaken to complete Ph. D thesis.

Keywords: access to justice alternative dispute resolution, adjudication, arbitration, disputant, docket-explosion, indian judicial system, litigation, mediation.

Section I

I. The Nature of Indian Judicial System: Looking Back

The democratic Indian judicial system has been a home to four major legal traditions – Hindus, Muslims British and that of modern India. As an unmatched structure, the Indian judicial tradition has absorbed within itself traits of ancient village panchayats (village assembly), Islamic law and elements of British judicial system. Though each of these systems emerged as a result of political changes, but successive traditions have been unable to completely supplant the influences of its predecessor. Influences and elements of each system have always remained resulting in the present contemporary law.

The indigenous Indian legal tradition has been that of the Hindus. The English term closest to the Hindu term 'Dharma' has been 'law' closely referring to right conduct, embracing the notions of morality, duty and obligation in its largest sense of the term. In the absence of legal hierarchies, the Hindu legal tradition resolved disputes through autonomous groups of families, clans and guilds; each group having autonomy in applying laws amongst themselves. Ancient India resolved their disputes through *Kulas*, (assembly of members of extended family or clan) *Srenis* (guilds of particular occupations) and *Pugas* (neighbourhood assemblies). These bodies' resolved cases according to local traditions and customs which were not necessarily unchangeable or by those laws derived from the ancient texts as Dharmashastras. The ancient Hindu kings generally recognized the peoples' right or for that matter the right of specific groups (castes, clans and guilds) to 'change customs and create new obligations'. It was a common practice of kings to decide cases pertaining to specific groups with that group's particular traditions and practices.

The advent of the Muslims during the 12th century brought with them their own system of royal courts in cities and towns and administered general criminal law and also allowed civil disputes to be resolved through their personal laws. Though, in theory at-least, sharia law prevailed but the Hindu subjects were granted considerable freedom in deciding matter civil and if such issues emerged before the royal authority it was decided in accordance with the Hindu traditions. However, the justice system did not penetrate deep into the countryside which provided the Hindu subjects the freedom to proceed with their own system of adjudication of disputes. ''The Muslim rulers did not interfere with the law of the Hindus and the Hindus continued to be governed by their own law in personal matters. The core underlying idea of Muslim rulers was

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its own self-preservation and political domination over Hindus[1].

The institutions of ancient jurisprudence continued well under the Mughals [2] only to receive severe shocks during the British rule. The emergence of the British during the 17th century altered the judicial landscape of Indian jurisprudence. The foreigner's adversarial system eclipsed the traditional-indigenous practice. The traditional institutions of adjudication got displaced as the law applied in British Indian courts became increasingly anglicized. The people oriented dispute resolution system especially prevalent at the grass-root level, in vogue since ancient times displayed symptoms of decay[3]; they largely became moribund by the late19th and early 20th century.

The British style of administration of the villages by the agencies of central government together with adversarial system of adjudication and growing pursuit of individual interests lessened the community's influence over the members and gradually led to decay of the people's court. Extreme formalism, technical and procedural rigidities, legal jargons together with the hierarchy of appeals kept victims of injustice struggle through the labyrinths of courts and in the course lose all hopes of getting their disputes resolved. Having disastrous repercussions for the indigenous justice system the British initiated legal structure brought into existence a new class engaged in legal professions who made the system more difficult pushing the poor away from the portals of the courtroom.[4] Its immediate effect was dual in nature; first it detached the masses from their indigenous-traditional method of dispute resolution and secondly it created the institution of legal profession and along with it came the barristers and solicitors making the road to justice even more rugged.

Though the contemporary Indian judicial system is a unified hierarchical system, but the system is marked by retention of colonial elements with the exception of the Supreme Court at the apex instead of the Privy Council. The present system is partly a continuation of the British legal system based on the hybrid legal system –'Common Law System' in which customs and precedents are all components of law.

Since the aim of the judiciary is to 'unite parties', the Indian judiciary has an un-matched role to play in the lives of the citizens. Justice as an important element has rightly been identified by the founding fathers of the Indian Constitution; the Preamble to the Indian Constitution seeks 'to secure to all the citizens of India, Justice – Social, Economic and Political – Liberty, Equality and Fraternity'. Furthermore, Article 39(A) of the Indian Constitution states, "The State shall secure that the operation of the legal system promotes justice..; to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities".[5]This principle has been interpreted by the Supreme Court to mean that 'social justice' within its wider ambit also includes 'legal justice' and that it is the duty of the administration to provide citizens justice that is cheapand expeditious. The judiciary must serve as an effective instrument for realizing the justice needs of the Indian citizens irrespective of their social or economic standing.

However, quite unfortunately the present manifestation of the Indian judicial structure is such that it neither deserves to be called expeditious nor cheap. A deep introspection will reveal that the Indian judiciary is beset with deep crises. In this context I quote Prof. Upendra Baxi (1982) who states, "crises arise when the structure of a social system allows fewer possibilities for problem solving than are necessary for the continued existence of the system… there is not only a crisis in the substantive domains of Indian law, but also a more pervasive crisis of legitimation".[6] He believes that the Indians have not internalized the meaning and value of legalism. He specifically mentions that the Indian

[1] Sunil Deshta (1998), *Lok-Adalats in India: Genesis and functioning; People's Programme for Speedy Justice*, New Delhi, Deep & Deep Publications, p. 5.

[2] The unique characteristic of Mughal administration in India was that it did not concern nearly 3/4th of the total population because people of the rural areas had their own courts which enjoyed civil and criminal jurisdiction. The result of such non-penetration of Muslim rulers into the countryside was that the textual laws influenced but did not displace the local laws. The disputes in the villages and even in cities were not settled by Royal Court, but by the lok-adalat or popular courts … It appears that the process of getting justice under the Mughals was not such a long-drawn agony as it is at present. One of the reasons for effective functioning of mediation or conciliation proceeding during the Mughal period might be the guidelines of the Holy Quran, which prefer amicable settlement instead of adversarial system of dispute resolution." Sarfaraz Ahmed Khan (2006), *Lok Adalat*, New Delhi, APH Publishing Corporation, p. 7.

[3] Justice D. A. Desai highlighted the reason for induction of the alien system in India and said, 'let it not be forgotten that for Pax-Britannica the colonial masters inducted in India by and large, the judicial system vogue in their country … among various motivations, the one central to empire building is economic exploitation, this exploitation necessitates internal peace and external security. Internal peace may be guaranteed by first maintaining the foreign military, loyal police and legal justice system which would keep the parties continuously litigating in the law courts with hierarchy of appeals so that the Indian … lose all initiatives for settling the disputes. Sarfaraz Ahmed Khan (2006), *LokAdalat*, New Delhi, APH Publishing Corporation, p. 8

[4] The legal profession is a product of the British connection, part of the complex of British style legal institutions imposed on India in the 18th-19th centuries. Lawyers are oriented to litigation rather than advising, negotiating or planning. This is displayed in and reinforcedby the structure of remuneration … Lawyers are rule-minded and conceptualistic; they focus on legal argument rather than fact-gathering and investigation. Arnab Kumar Hazra (2003), *The Law and Economics of Dispute Resolution in India*, New Delhi, Bookwell Publishers, p. 185.

[5] Constitution of India.

[6] Frank Wooldridge (1983) (Reviewed Work), The International and Comparative Law Quarterly, Vol. 32, No. 2, Published by Cambridge University Press on behalf of the British Institute of International and Comparative Law, p. 550.

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political elites and middle class rarely cultivate respect for law.

Below I have highlighted some pestiferous malice of the Indian judicial system.

II. Judicial Backlog

The Indian judicial system is deeply mired in huge backlogs which is largely the result of lengthy procedures and automatic appeals. The courts are over-burdened with pending cases, the situation has become so alarming that Justice V.R. Krishna Iyer used the term 'Docket Terrorism' instead of 'Docket Explosion'; a crisis which plagues both the higher and lower courts. "The total number of cases pending in various High Courts multiplied from 324,000 in 1970 to 2,033,543 in 1990 to 3,198,547 in1998, an increase of nearly ten folds in less than 30 years.

As on December 31, 2004, the total number of civil cases pending before the subordinate judiciary had been 82,36,254 and criminal cases pending were 1,95,85,776. The total pendency thus figured around 2,78,22,030. Out of the total national pendency at the subordinate courts level, 70% were criminal cases and the remaining civil.[7]As on 31st December 2005, 34,481 cases were pending with the Supreme Court, 35, 21,283 cases with the High Courts and 2,56,54,251 cases with subordinate courts.[8]

According to data available with the apex court, around 64,919 cases are pending in the Supreme Court as on December 1st, 2014. Pending cases in High Courts as on December 2013 stood at 4.4 million, up from 4.3 million in 2011. Around 44.5 lakhs and 2.6 crores of cases lie pending in the 24 High Courts across the country and lower courts respectively till the year ending 2013.Of the over 44 lakh cases pending in the 24 High Courts' 34,32,493 were civil and 10,23,739 criminal cases. Data available suggests Allahabad High Court together with civil and criminal cases had a maximum pendency of 10, 43,398 cases while Sikkim High Court had a minimum pendency of just 120 cases till the year ending 2013. Around a total of 64, 652 cases had been pending before the Delhi High Court. Statistics reveal that the maximum number of pending cases in the criminal category around a total of 3,47,967 cases lie with the Allahabad High Court. Around 2.6 crores are pending in the different lower courts of the country; over 56 lakh cases have been pending in the Uttar Pradesh subordinate judiciary by the end of 2013. Out of these 51 lakh cases, 41,98,761 cases are criminal cases. A total of 5,22,167 cases have been pending in the Delhi District Courts, including 3,81,615 criminal cases.[9]

Such huge number of cases staggering in courts at various levels has always baffled the authorities concerned; hence the Government of India since long back has instituted committees to examine the question of arrears and delays. The Justice Rankin Committee (1924) set up to examine speeding up of judicial process in its Report (the famous Rankin Committee Report of 1925) almost nine decades ago had stated, "…the existence of mass arrears takes the heart out of a presiding judge. He can hardly be expected to take a strong interest in the preliminaries, when he knows that the hearing of the evidence and the decision will not be by him but by his successor after his transfer. So long as arrears exist, there is temptation, to which many presiding officers succumb, to hold back to the heavier contested suits and devote attention to lighter ones … while the real difficult work is pushed into the background."[10] Experts feel that if this report had to be written in the present decade, not a single word would change.

Since 1924 several committees had been instituted to bring about the desired reforms. While in 1949 Justice S. R. Das Committee was formed to examine arrears in High Courts, in 1972 Justice J. C. Shah Committee was set up to examine over-all arrears. In 1980, the Estimate Committee's Report also suggested about dispute resolution reform. Mention must also be made of the Satish Chandra Committee (1986) and the 1stMallimath Committee of 1990. Since 1955 several Law Commissions have been set up to effect legal reforms. The 14th, 79th, 80th, 120th, 121st& 124th reports of the Law Commission specifically touched on the question of arrears.

In its 14th Report the Indian law Commission categorically stated, "the delay results not from the procedure laid down by it but by reason of the non-observance of many of its important provisions particularly those intended to expedite the disposal of proceedings."[11]The Law Commissions time and again had emphasized that lack of clarity of procedural laws has not been the reason for judicial delay rather the real cause lay in imperfection execution or specially their non-observance.

Recently, the Law Commission has come out with its 245th Report titled "Arrears and Backlog: Creating Additional Judicial (Wo)manpower." The Report had the following to say, "Keeping in view that timely justice is

[7] Scott Schakelford, *In the Name of Efficency: The Role of Permanent Lok-Adalats in the Indian Justice System: The Role of Permanent Lok-Adalats in the Indian Justice System and Power Infrastructure*, available at www. works.bepress.com/scott_shackelford/4 accessed on 1/4/2015.

[8] SAARC- Human Development Report of 2006.

[9] These data have been collected from www.ndtv.com/india-news/more-than-3-crore-court-cases-pending-across-country-709595 accessed on 1/4/2015.

[10] Bibek Debroy (ed. 2005), 'Reforming the Legal System', in Raj Kapila and Uma Kapila, *Economic Developments in India*," Academic Foundation in association with Rajiv Gandhi Institute for Contemporary Studies (RGICS), pp. 24-25.

[11] *Law Commission of India, 77th Report*, para.4.1

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an important facet to access to justice, the immediate measures that need to be taken by way of creation of additional Courts and other allied matters … to help in elimination of delays, speedy clearance of arrears and reduction in costs. It is trite to add that the qualitative component of justice must not be lowered or compromised."[12]

III. Judicial Vacancies

Inadequate number of judges at every level is another important reason for delay. Till 6th September 2001, there were 470 judges as against the sanctioned strength of 647 judges in the High Courts of the country.[13] According to the 2004 year ending review of the Ministry of Law and Justice there were 143 vacancies in the 21 High Courts[14] out of a sanctioned strength of 719 judges leaving almost 20% of the judges' posts vacant."As of December 2005, there were 4 vacancies in the Supreme Court which rose to 7 in 2010 and as many as 21 in the High Courts in the country with Calcutta (21), Madras (20), Allahabad (14), Punjab and Haryana (11) topping the list.[15] Almost all courts have vacancies and a court of full strength at any point of time is an anathema[16]. The number of judge in the Indian context is on the low, a fact also endorsed by the World Bank.[17] Both Debroy (2005) and S. A. Khan (2006) have shown that judicial strength on the Indian side is poor when compared with its counterparts in other parts of the world. For instance for every million population, the United States has 107 judges, Canada 75.2, Britain 50.9 and Australia 41.6 whereas for India it is slightly over 10.26.

Records reveal that till 2014 in the Supreme Court there are currently 28 sitting judges, against a maximum possible strength of 31.

Against a sanctioned strength of 984 judges in 24 High Courts, there are only 636 judges, with almost 348 posts or nearly 35% vacant. The Allahabad High Court has the highest vacancies (75) against a sanctioned strength of 160 judges.[18] A total of 4,706 judicial positions were vacant as on August 2014 for Supreme Court and High Courts.[19]

As early as 1987 the Law Commission in its 120th Report submitted after examining the problem of understaffing had recommended 50 judges per million of the population. The successive reports of the Law Commissions and expert committees had always moved the government towards taking concrete steps.

Sensing the grave situation, the Government of India in 2008 set itself the target of having at least 50 judges per million by 2013. In 2014, again a five-year plan was adopted with the aim of doubling the number of 'sub-ordinate court' judges (excluding the Supreme Court and the High Courts). The current position stands at less than 15 judges per million and this figure too would be far less taking the rate of litigation boom.

IV. Judicial Delay

Until recently, SAARC-Human Development Report of 2006 reiterated the fact that Indian judiciary still continues to be plagued by judicial delay[20]. There are about a quarter million under trial prisoners languishing in jails for more than 5 years, even as their guilt is yet to be proved.[21]Institutional incapacity coupled with lack of professional will make the situation serious. Cases are not rare when the common man complain that their complaints are not heard by men in authority. The poor facilities conspicuously emerge as contributing to poor administration of justice added to which is the problem of poor supervision and monitoring. High

[12] *New Law Commission Report on Delays, Arrears, and Adequate Judge Strength*, available at www.lawandotherthings.-blogspot.in-/2014/08/new-law-commission-report-on-delays.html accessed on 1/4/2015.

[13] BathulaVenkateshwar Rao (2001), *Crisis in the Indian Judiciary*, Hyderabad, Legal Aid Centre, p. 158.

[14]The Centre has constituted three new High Courts in the northeast — Meghalaya, Manipur and Tripura — taking the total number of High Courts in the country from 21 to 24January 26, 2013. *Report of the National Judicial Commission, Judicial Appointments and Oversight*, p. 3.

[15] Anurag Sharma, *'Speedy, Fair and Affordable Justice to a Common Man: Present Challenges and Future Agenda for Reforms'*, available at http://www.lawyersclubindia.com accessed on 18/8/2010.

[16] The combined strength of all the High Courts in the country is 886 judges, but the actual working strength is 652 judges, leading to a deficit of 254 judges. Similarly, the combined sanctioned strength of the judicial posts in district and sub-ordinate courts is 16,721 judges, but the actual working strength is 13,723 judges, leading to a deficit of 2,998 judges. Anurag Sharma, '*Speedy, Fair and Affordable Justice to a Common Man: Present Challenges and Future Agenda for Reform*', available at www.lawyersclubindia.com accessed on 18/8/2010.

[17] It is indeed true that the number of judges per capita is low in India. For example, the World Bank database on 30 countries show that the number of judges per 100,000 inhabitants varies from 0.13 in Canada to 23.21 in the Slovak Republic; with an Indian figure of 2.77. BibekDebroy (ed. 2005), 'Reforming the Legal System', in Raj Kapila and Uma Kapila '*Economic developments in India'*; Academic Foundation in association with Rajiv Gandhi Institute for Contemporary Studies (RGICS), p. 28.

[18]Law Minister Blames Collegium System for Judges Vacancy in High Courts', The Times of India, 26th November 2014.

[19] Justice has a Mountain to Climb, of 31.3 Million Pending Cases', Hindustan Times, 4th September 2014.

[20] An extreme case of judicial delay was highlighted in public when in July 2005; the Chief judicial Magistrate of Kamrup intervened and released MachungLalungLalung from the GB Regional Institute of Mental health on a personal bond of Rupee one. The tragedy of the entire episode was that Lalung who had been an under trial was that Lalung who had been an under trial prisoner for 54 years was never produced before any court. Similar were the fates of KhalilurRehman, an under trial prisoner for 35 years, Anil Kumar Burman, an under trial for 33 years and Sonamani Debi, an under trial prisoner for 32 years. These examples have been referred from *SAARC - Human Development Report,2006*. 'It has been observed that judicial delay in producing judgments ultimately results in huge arrears of cases.

[21] Figures revealed from the Home Ministry's department of justice, under Right to Information Act application placed by a citizen, available at http://www.rtindia.org accessed on 19/7/2010.

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expenses incurred in litigation have been one of the vices of our justice system. Inordinate delay and exorbitant cost have prevented the system from being appreciated[22]. These unwarranted loopholes has today become innate features of the judicial system creating an atmosphere repugnant for the legal minds who from time to time have expressed their concern over the faltering judicial edifice. To quote Justice Iyer, "the myth is that courts of law administer justice, the truth is that they are agents of injustice."[23]Since the citizens have a fundamental right to speedy trial which is reasonable, fair and just, denial or delay in such services amount to violations of their basic rights. Incarceration of those accused (real or potential) without trial is denying them justice.

V. Complexities of the System

Procedural technicality, complex legal jargons coupled with lethargy, repeated adjournments and frequent appeals have made the entire legal process suspicious and distrustful to the common man. Technical complexities often deny the poor litigating parties their rightful share of having justice done to them. Added to the existing cumbersome legal process, multiplicity of hastily enacted laws by the authorities (both central and state government) opens up new avenues for more appeals and litigations.[24]Regrettably crowding of legislative acts has left little space for human sensibilities. While Justice Hidayatullah believed that the maxim of '*Summus Jus, Summa Injuria'(meaning 'more the law, less the justice')*has no appeal in the Indian context, Justice A. K. Sen believed the need of the hour is not just enough good laws but their proper implementation with a human touch.[25]

'Interestingly, the Government is the largest litigant in the country[26]. According to estimates, the number of cases agitated by or appealed by the state rounds off to about 70% while the government officials neither allow the cases to get disposed nor withdraw the same since that would offend their vested interests'. Therefore, the state as the largest litigant directly or indirectly is responsible for delay. Parliament data reveal that increasing number of legislations, accumulation of first appeals; adjournments and lack of logistics are causes for cases pending.

In addition to backlogs and delays, the judicial infrastructure is poor. The courts are grossly underfunded. Though the authorities had repeatedly assured to overhaul the 'opaque' process of judicial appointment and functioning promising a system which is transparent and based on competence and integrity, but hopes are bleak. The prospects seem dim when a retired Supreme Court judge (Jagdish Verma) complained that even elementary measures as implementing long working hours and more working days are yet to be implemented.

VI. Colonial Legacy

Though rationalization and professionalization of the Indian legal system is said to be a British boon yet these have not been without a price. No doubt, the laws have been made universal with conformity to national standards; yet in doing so the Britishers' have removed laws 'remote from popular understanding'. The present legal system with its colonial heritage provides sufficient scope for manipulation and exaggeration of laws and legal precepts "so that uniformity in doctrine and unity in formal structure coexist with diverse practices that diverge from the prescriptions of formal law".[27]Inspite of holding a coveted position, jurists are constrained by rules (having a colonial hangover); they find themselves 'prisoners of the rhetoric of the adversary system.'

The Indian legal system still struggles with the yoke of colonial legacy which once prompted Justice V.R. Krishna Iyer to comment, "Indian justice system still has the tenor of the British band and lacks the notes of Bharat's Veena." [28] Similarly, Pandit Nehru remarked, "The defect really lies with the judicial structure that we have inherited from the British which entails inordinate delay and expenses."[29] Legal jargons and strict rules of evidence have turned the poor man into more than

[22] Our present Prime Minister Dr. Manmohan Singh said "the judicial system must make concerted efforts to wipe every tear of every waiting litigant, urging the judiciary and executive to work together as a seamless web and indivisible whole. He further accepted that despite its strength India had to suffer the scourge of the world's largest backlog of cases and time-lines which generate surprise globally and concern at home. Echoing similar sentiments (former) Chief Justice of India K G Balakrishnan accepted that the chronic shortage of judicial officers was hindering efforts to overcome the back log of cases."The PM and CJI were speaking at a conference of Chief Ministers and Chief Justices of High Courts, in New Delhi, in the midst of a 'National Debate of Judicial Corruption and Raging Controversy over Declaration of Assets by Judges of Higher Judiciary. This report occurred in The Statesman, on 17/8/2009.

[23] Justice Ashok A. Desai (2000), *Justice Versus Justice,* New Delhi,Taxmann Allied Services Pvt. Ltd., p. 4.

[24] A.K. Sen, M.C. Setalvad and G.S. Pathak (1964), *Justice for the Common Man*, Lucknow, Eastern Law Publishers and Book Sellers, p. 10.

[25] Justice Hidayatullah's speech is found in the introductory note in A.K. Sen, M.C. Setalvad and G.S. Pathak (1964), *Justice for the Common Man*, Lucknow, Eastern Law Publishers and Book Sellers, p.10

[26]Madabhushi Sridhar (2005), *ADR Negotiation and Mediation*, New Delhi, Lexis Butterworths Publisher, p. 57.

[27]Ainshee T Embree (1988),'Law, Judicial and Legal Systems of India' in *Encyclopeadia of Asian History*, Vol. 2, London/New York, Charles Scribner's Sons, Collier Macmillan Publishers, p. 414.

[28] Syed Ali Mujtaba (2009) '*Crisis of Governance - An Indian Experience'*, paper presented at the Asia Media Conclave in Bangkok on 25th-27th March, 2009.

[29] Justice Ashok A Desai (2000), *Justice Versus Justice*,New Delhi,Taxman Allied Services (P) Ltd., p. 2

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'God-fearing' into a 'court-fearing man.' Marc Galanter observed, 'contemporary Indian Law is for most part, palpably foreign in origin or inspiration and is notoriously incongruent with the attitudes and concerns of much of the population which lives under it'.[30]

VII. Judicial Corruption

The Transparency International ascribed rampant corruption in Indian Courts to factors as judicial delays, judicial vacancies, cumbersome procedures, and preponderance of new laws, (most of which are often hastily enacted).A study of the Transparency International in 2008 reported that about 40% of Indians had first-hand experience of paying bribes or using a contact to get a job done in public office.[31] While in 2013 India stood 94th out of 175 countries, it ranked 85th in 2014 in Transparency Perceptions Index when compared to its neighbouring countries as Bhutan (30th), Sri Lanka (85th), China (100th), Nepal (126th), Pakistan (126th), Bangladesh (145th) and Myanmar (156th).

In its Xth Plan Report the Planning Commission noted, 'Corruption is most endemic and entrenched manifestation of poor governance in Indian society, so much so that it has become an accepted reality and a way of life'. In its XIth Five Year Plan, the Planning Commission reiterated, 'good governance is not possible without addressing corruption in its various manifestations….' What has perturbed more is the fact that corruption has reached the highest echelons of the judiciary – the Supreme Court. The Rajya Sabha in 2011 impeached Soumitra Sen, a former judge at the Kolkata High Court for misappropriation of funds.

Ruma Pal, a former Supreme Court Justice in 2011 (November) took to task the higher judiciary for what she called the 'seven sins' -ignoring injudicious conduct of a colleague, hypocrisy, secrecy, plagiarism and prolixity, self-arrogance, professional arrogance and nepotism.Scandals have blighted the higher judiciary in the country. A former Chief Justice of India (CJI) KG Balakrishnan (Chairman of the National Human Rights Commission) was accused by his two colleagues of nepotism. There has also been similar allegation against YK Sabharwal, another former CJI. A virtual storm was created in June 2010 when Shanti Bhushan (former Law Minister) moved an application and accused 'eight former CJI's of corruption'.

The judiciary is in the throes of its worst ever moral crisis. Inefficiency, manipulation of truth, excesses of ineptitude and turpitude has eroded the dignity of the judicial edifice which till recently was seen by the people as the last bastion of institutional integrity. Personal misdemeanors of individual judges as those of PD Dinakaran, Soumitra Sen and V Ramaswami add to the cynicism of citizens. Needless to say, the magnitude of partisanship, lack of professional rectitude and personal integrity among those occupying highest judicial seat have a very pernicious effect on the entire Indian fabric making a mockery of the democratic dispensation and the sanctity of the Constitution.

Section II

I. The Need for Alternative

Under the prevailing circumstances, the justice system fails to meet the citizens' demand of confidence, reliability and dependability. The Judicial institution must embody within it the elements of judicial responsibility, accountability and independence, and must in every sense remain inseparable. The efficacy and ability of the judiciary to delivery has come under severe scrutiny; questions have been raised on its credibility. Vivek Upadhayay (2007) finds several reasons for which justice eludes the common man. He characterizes the legal process as being mystical, obscure and lacking in transparency added to which is the uncaring attitude of those in authority. Taking these to be blind spots, he comments that the Constitutional guarantee of justice[34] loses its sanctity in the face of such unwarranted hurdles. In spite of all the good works of the judiciary, the courts have largely been unsatisfactory institution. The failings of the Indian justice mechanism are so great that Oliver Mendelsohn prefers to describe it as "pathology of a legal system." [35] The adage 'justice delayed is justice denied' rather than remaining a mere cliché has become a working truth of the current state of Indian judiciary.

One more important fact must be pointed here. In this era of globalization as the commercial elements had overshadowed the importance of service character, the regular formal system has not lived up to meet

[30]Madabhushi Sridhar (2005), *ADR Negotiations and Mediation*, New Delhi, Lexis Butterworths, p. 88

[31]*India Corruption Study – 2008.Transparency International, 2008.*

[32] *India Corruption Study – 2008—With Special Focus of BPL Households.*Designed and Conducted by Centre for Media Studies, New Delhi. Preface, p. xviii.

[33]*Ibid*, Preface, p. xviii.

[34] The Constitution of India empathetically declares India to be a 'Sovereign, Socialist, Secular and Democratic Nation. The Preamble affirms a determination to secure economic, political and social justice for all citizens of India. It also speaks of equality of status and opportunity so as to ensure the dignity of people. The rights of the people and the obligations of the state in this regard were ensured by the Constitution framers by incorporating detailed and comprehensive chapters on the Fundamental Rights of the Citizens of India and Directive Principles of state policy. VidehUpadhyay (2007), 'Justice and the Poor: Does the Poverty of Law Explain Elusive Justice to Poor?' in Arnab Kumar Hazra and BibekDebroy(ed.)*Judicial Reforms in India: Issues and Aspects*, New Delhi, Academic Foundation in association with Rajiv Gandhi Institute for Contemporary Studies (RGICS), p. 86.

[35]Oliver Mendelsohn (1981), *The Pathology of the Indian legal System*, Modern Asian Studies, Vol. 15, No. 4, Cambridge University Press.

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growing demand for justice which has forced the quest for alternative methods of adjudication.

The growing concern over judicial dependency has compelled the government to initiate steps to reduce, if not overcome the problem. In a conference held 2005 (11th June) Justice K. Venkapathy, the Minister of State expressing concern over the ever-increasing arrears strongly recommended taking recourse to alternative methods of dispute resolution. Since the system bore the scourge of the huge backlog generating concerns at home and abroad, both the central as well as the state Governments at regular intervals has come forward with assurances to overcome high pendency of court cases.

The resolution adopted in the conference of chief ministers with chief justices of states held in New Delhi on 4th December 1993 endorsed the movement towards ADR. Taking note of the fact that it was humanly outside the competence of courts to deal with ever-increasing arrears, it was decided that those cases capable of resolution through alternative techniques of arbitration, conciliation, mediation and negotiation should be disposed of through these means. The meeting emphasised that disputants would be encouraged to resolve their disputes through informal forums rather than through conventional trials in regular courts. The conference stressed on the desirability of taking recourse to alternative methods of dispute resolution which provided procedural flexibility, save resources both in terms of time and money and avoided the harangues of legal trial.

II. Alternative Dispute Resolution Mechanisms

ADR or Alternative Dispute Resolution refers to those techniques and processes where disputes are resolved short of litigation. ADR is in fact, 'dispute management' process bearing the potential towards consensual resolution.

Alternative Dispute Resolution mechanisms encompass a variety of techniques as mediation, arbitration, conciliation and negotiation. The type of process that is adopted by disputants is decided by what the parties seek to achieve. For instance, if the goal of the disputing parties is to protect their relationship the method chosen is mediation. When the goal is to balance the power-relationship then the obvious choice is negotiation. ADR has proved to be useful in the sense that the procedures involved are simple and direct involvement of the parties as against the highly structured and legalistic procedures of courts where the parties are nothing more than evidences. The disputants do not have direct involvement in the decision-making process of courts unlike that of the informal processes where the parties are asked what they want or are encouraged to provide suggestions.

There are several ADR methods and as such a mediator or negotiator may employ any one of the processes or may follow a mix of one or two methods as per the demand of the situation.

Arbitration is the private determination of the dispute by a neutral third party. In arbitration the dispute is decided upon by persons chosen or agreed upon by the parties themselves. The aim is to obtain fair resolution with minimum delay and expense.

Mediation is a structured negotiation process. Instead of accepting any decision imposed by a third party, the parties themselves determine the conditions of settlement reached. The disputing parties may either be private individuals, communities, organizations or states. The mediators through the use of appropriate techniques or skills open and improve dialogue with the ultimate aim of reaching a consensual agreement.

Conciliation: Conciliation is the process of mediation used in agencies under law. In facilitating an amicable settlement there is no determination of a dispute unlike that of the arbitration process. There need not be a prior agreement and it cannot be forced on a party not intending for conciliation. The proceedings relating to Conciliation are dealt under sections 61 to 81 of Arbitration and Conciliation Act, 1996.

Mediation and conciliation are often used interchangeably; however a finer distinction exists between the two. The responsibility of the mediator, who is chosen by the disputing parties themselves, is to bring the parties together to help them reach a consensus decision. The mediator listens to the parties and impress upon them to reach an amicable solution. For justiciable disputes, conciliation is supposed to be a constructive approach. After listening to both the parties in a conciliation conference and if, need arise, listening to their views separately, the conciliator ascertaining the bottom line draws up the terms of possible settlement. The solution is then presented to the parties concerned.

While arbitration is less formal than litigation, conciliation is even less formal than arbitration. It is often said that conciliation is the precursor to arbitration. In arbitration the aggrieved parties have a say in deciding the arbitrators, venue and date of meetings but they have no control over the ultimate decision while in conciliation process the parties have the privilege of negotiating at a resolution in a less formal environment.

As per Section 80 of the Arbitration and Conciliation Act (1996) [36] the conciliator strives to generate options to find a solution acceptable to the

[36] The Arbitration and Conciliation Act 1996 lays down for the first time, a well structural law of conciliation. Based on United Nations Commissions on International Trade Law (UNCITRAL) Conciliation Rules 1980, the new law has the advantage of universal familiarity and can be used for settlement of domestic disputes as well as international commercial disputes. Madabhushi Sridhar (2005), *ADR Negotiation and Mediation*, New Delhi, Lexis Butterworths Publishers, p 92.

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disputants. This is in consonance with Section 67 of the said Act which states that conciliators should assist the parties in reaching an amicable solution. A settlement reached through conciliation enjoys the same status and effect as a decree of the court. In the conciliation process, the disputing parties remain free to withdraw from the process at any stage of the proceeding, without prejudice to their legal proceedings. The conciliation process avoiding the protracted process of litigation resolves the dispute at its threshold. Maintaining confidentiality is the bottom-line of the entire process.

Here it is important to make a distinction between binding and non-binding forms of ADR. While mediation, conciliation and negotiation as non-binding forms of ADR depends much upon the willingness of the disputants to reach an amicable resolution, decision reached through arbitration is binding upon the parties even if it conflicts with their interests. However, these ideal forms combine to form hybrid-types which are often used depending upon the type of dispute to be resolved and the interests of the stakeholders. Enveloping a wider connotation, ADR encompasses all actions from facilitated negotiated settlement where the parties are encouraged to opt for direct negotiation to arbitration process that looks much like a mini-trial or court process.

III. Alternative Dispute Resolution in India

Resolving disputes outside the threshold of legal courts has been a part of India's cultural heritage as panchayats, local peoples' court and extended family courts have nipped disputes in their buds. These traditional institutions were recognized systems of administration of justice and existed in parallel to the formal justice system established by the sovereign. These traditional-indigenous institutions akin to the ADR processes were informal, cheap and quick were based on the prevalent notions of societal behaviour. Though the colonial rule pushed these indigenous justice dispensing mechanisms to the brink of extinction, of late ADR these traditional institutions mechanisms have once again gained popularity both among the common people and members of legal profession.

ADR as practices in India can be broadly classified into two variants – court annexed mechanisms and community based techniques. Mediation and arbitration as the classic method of court annexed ADR methods is said to amicably resolve disputes with less time and expense. Such methods of resolution of disputes not only reduce the burden of the formal judiciary but make '*justice accessible'*.

Since conflict in any society is inevitable; it is urgent to resolve disputes before it harms its social fabric. As members of society it becomes the obligation of all individuals as well as the state to devise methods to nip disputes before it proves destructive to societal peace and harmony. ADR based on the twin foundation of natural justice in consonance with the rule of law is the need since it resolves disputes amicably in direct contrast to litigant where much heartburn and agony damages social relationships beyond repair. Today, ADR has become the cornerstone of dispute resolution as its growing importance is being acknowledged both in the field of law and commercial sector. It has gained ground because of its ability to provide justice which is cheap and quick, the proceedings are shorn of legal complexities and jargons, and decision is based on consensus without involving the winner-loser rhyme. In a country as India where culture and cultural practices are prioritized the citizens' prefer to settle their disputes amicably through community mediation instead of lawyers arguing out their case, pushing through adjournments and wasting scarce resources. The aggrieved parties desire relief as they want it both quickly and cheaply as possible. Since, 'there is no worse torture than the torture of law'[37]citizens' welfare becomes a far cry unless a system of order based on justice is brought into existence.

Since the heart of India lies in its villages and rural centres, it is extremely important that the people should be protected from the ravages of a system of justice which is expensive and entails hardships. Bearing this in mind, the Civil Justices Committee (1925) recommended a revival of the traditional system empowering the indigenous village or panchayat courts. Though the village traditional-indigenous courts do not function as courts in the ordinary sense of the term because they neither strictly follow laws nor pass judgments in legal lights but they are vital because they cater to justice needs of the people. These traditional justice institutions attempt resolution of local disputes keeping the prevalent norms and situations in mind. It must be remembered that what the people desire is justice not in purely legal terms but a fair resolution of disputes; that their disputes are resolved quickly and without cost.

The idea of peoples' participation and decentralized justice as envisioned by Mahatma Gandhi, 'the Father of the Nation' lay in a system of village panchayats as he stated, 'the government of the village will be conducted by the panchayat of five persons annually elected by the villagers … these will have all the authority and jurisdiction required …this panchayat will be the legislature, judiciary and executive combined …'[38]Though the government of Independent India has

[37]A.K Sen, M.C. Setalvad, G.S. Pathak (1946),*Justice for the Common Man*,Lucknow, Eastern Book Company, p.7.

[38]K. Ramaswamy (1997), 'Settlement of Disputes through Lok-Adalats is one of the Effective Alternative Dispute Resolution (ADR) on Statutory Basis', in P.C Roa and W. Sheffield (ed). *Alternative Dispute Resolution – What it is and How it Works*?, Delhi, Universal Law Publishing, p. 95

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passed legislations on Panchayati Raj but much remains to be done to make justice accessible.

IV. Government Initiatives

There have been initiatives on the part of the government to revitalize the ADR mechanisms to reduce the innate problem of docket overflow. Justice Malimath in its Report (1989-90) after a comprehensive review of the working of legal courts, particularly all aspects of arrears and delay and various useful recommendations for reducing litigation and making justice accessible to the people with the use of minimum resources, recommended the need for alternative dispute resolution mechanism such as mediation, conciliation, arbitration and lok-adalats as viable alternative to conventional litigation.

The Supreme Court in Guru Nanak Foundation Vs Rattan Singh & Sons observed, 'interminable, time-consuming, complex and expensive court procedures impelled jurists to search for an alternative forums, less formal, more effective and speedy for resolution of disputes avoiding claptraps…' [39] However, *alternative* does not imply taking recourse to alternative courts but it signifies adopting those methods and techniques for dispute resolution which are alternative to complex legal procedures or 'something which can operate as court annexed procedure'. [40] The underlying thrust is to channelize the scarce resources spent in legal wrangles towards constructive pursuits. By allowing disputants to resolve disputes consensually ADR mechanism employed through informal institutions save disputing parties from wasting time and resources. The ADR techniques through informal processes promise more conciliatory, less formal and more flexible procedures than litigation. What is more worthwhile is that the ADR mechanisms seek to provide the aggrieved parties the kind of remedy that is most appropriate under the existing circumstances.

Statutory recognition had been granted to ADR mechanisms through XXXIIA of CPC (Civil Procedure Code, 1908). Industrial disputes are referred for either arbitration or conciliation as per section 10 and section 12 of Industrial Disputes Act 1947. Family matters such as divorce and maintenance under the Hindu Marriage Act 1955 are settled through mediation. Disputes relating to dissolution of partnership, compoundable offences under section 145 of Cr PC, that is, disputes of possession which are of civil nature are referred for arbitration. The Family Courts Act of 1984 also recognized the need for ADR and insisted on conciliatory approach to settle family issues.

The Parliament has accorded its recognition and support to ADR and the enactment of Legal Services Act (1987) is a step towards it. Gearing itself to fulfil the obligations and needs of the democratic legal order in a plural society the government opted for providing free legal aid to its citizens. [41] The government's commitment in reforming the legal order reflected in its initiative of introducing legal service programme with the aim of bringing justice to the doorsteps of the people. Committed to overcoming frustrations caused by the dilatoriness and expensiveness of the formal legal system the government devised innovative form of voluntary effort for amicable settlement of disputes in the shape of lok-adalats[42]. The most important step in this direction was the incorporation of Article 39(A) in the Indian Constitution and by doing so the government acted in accordance with the letter and spirit of providing equal justice to all as enshrined in the Constitution.[43]

Taking note of the need for legal aid, the government through the 42nd amendment act inserted Article 39(A) (with effect from 3-1-1977). Article 39(A) in Part IV of the Indian Constitution reads, 'The state shall secure that the operation of the legal system promotes justice on the basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disability.' Though Article 39(A) recognizes free legal aid as a non-enforceable right, the higher judiciary interpreted the

[39] Avtar Singh (7th ed., 2005), *Law of Arbitration and Conciliation*, Lucknow, Eastern Book Company, p. 391

[40] Ibid, p. 301

[41] The right to legal aid owes its genesis to the UN Charter, when it declared its 'faith in fundamental human rights, in the dignity of human person, in the equal rights of men and women'. It also provides for promotion of 'universal respect for and observance of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion' (Article 55). It implies that equality is the yard-stick of all fundamental freedoms and human rights and it cannot be denied on any ground including poverty and if poverty comes in the way of enforcement of these human rights, legal aid is a condition precedent for the realization of human rights. '*Nyaya Deep'*, the official journal of NALSA, Vol. XII, Issue 4, January 2012, pp. 77-78; & Justice A. B. Srivastava and R. K. Sinha (2000), *The Legal Services Authorities Act (With Central and State Rules and Regulations)*, Allahabad, Universal publishers, p. xxxv.

[42] It is in this spirit that Late Rajiv Gandhi, the former Prime Minister of India, rightly concluded that lok-adalats are a major break-through in the judicial system of our country. Times have come when the Indian judiciary must be rationalized to the tune of time and accept the reality otherwise we are fast approaching a stage where the case-load is so heavy that it will crush the present judicial system. Unless this problem is tackled intelligently and cautiously, the litigants might be gripped with a sense of frustration and loss of confidence in the courts. Sunil Deshta (1998), *Lok-Adalats in India: Genesis and Functioning; People's Programme for Speedy Justice*, New Delhi, Deep & Deep Publication, p. 5.

[43] Articles 14 and 22 (1) Indian Constitution also make it obligatory for the state to ensure equality before law and a legal system which promotes justice on a basis of equal opportunity to all. Anurag K. Agarwal (2005), Role of Alternative Dispute Resolution Methods in Development of Society: Lok-Adalat in India, Series of Working Paper, Research and Publications, Ahmedabad, Indian Institute of Management, p. 9.

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right to life and liberty under Article 21 inclusive of right to legal aid at state expense and Article 39(A) is used to define the scope and content of this right.

Section 30 of the Arbitration and Conciliation Act, 1996 encourages disputants to seek the help of arbitrators to reach settlement through mediation, conciliation or other procedures at any time during the arbitration process. The Arbitration and Conciliation Act (1966) as the first comprehensive legislation in India ushered in an era of private arbitration and conciliation.

The Civil Procedure Code (Amendment) Act, 1999 through Section 89 encourages settlement through arbitration, conciliation and mediation or judicial settlement [44] through lok-adalats. The CPC has been amended which states that courts shall direct the parties to seek settlement of disputes outside the court as specified in section 89(1).

V. ADR Processes as Practiced in India

Widely used in developed world as USA, UK and European countries, the use of mediation as an alternative dispute resolution mechanism is slowly, but surely gaining ground. Significant steps have been taken by the judiciary and law commissions to endorse the value of mediation as informal ADR process and the International Conference on ADR and Case Management (May 2003) is an important step in such a direction. On the directions of the Apex Court, in sequel to its judgement in 'Salem Bar Association Vs. Union of India' the committee under the chairmanship of Justice M. Jagannadha Rao prepared the 'Draft Mediation Rules, 2003'which regulates the mediation process initiated under Section 89 of CPC. Mediation as an ADR mechanism got a major boost when the Tamil Nadu Mediation and Conciliation Centre was inaugurated (9th April, 2005) in the premises of Madras High Court by Y.K. Sabharwal (the then judge of Supreme Court).

The Indian Institute of Arbitration and Mediation[i] (IIAM) provides ADR services which include mediation, conciliation, arbitration and settlement through conferences. Guided by an advisory board under the chairmanship of Hon'ble former Chief Justice of India Justice M. N. Venkatachalli, the IIAM has also launched its 'IIAM Community Mediation Service', a decentralized socially-oriented cheap dispute resolution mechanism providing justice at doorsteps as well as training individuals as community mediators. With a panel of arbitrators and mediators, the IIAM provides professional mediation services for both national and commercial business disputes. As part of corporate social responsibility, the IIAM provides facilities for mediation clinics; it assists in structuring and designing new or hybrid-clauses which would fit specific situations making the whole mediation process time bound and swift.

Established in 1965 on the initiatives of the Government of India and apex business organizations as FICCI, the Indian Council of Arbitration (ICA, based in New Delhi) resolves commercial disputes quickly in an inexpensive way. The aim is to promote amicable resolution of business disputes by means of arbitration and conciliation. As one of the most important arbitration centres in Asia-Pacific, the ICA arbitrates almost 400 disputes (both domestic and international) annually.

According to the Centre for Alternative Dispute Resolution[ii] (CARD)mediation works well in all case of family and matrimonial disputes, cases of personal injury, accidental claims, property claims and commercial disputes.

ADR thus offers an alternative route for resolution of disputes; the emphasis which is informal and flexible, is on "helping the parties to help themselves". The manifold advantages of mediation have made its practice popular. Some of its benefits includes;

- Cost reduction
- Quick and cheap
- Voluntary process
- Flexibility of procedure
- No legal complexities
- Maintaining Confidentiality
- Open participation of disputants; facilitating discussions and seeking suggestions
- Viewing the dispute informally
- facilitating a generic approach to an individual problem,
- The process is determined and controlled by the parties
- Direct negotiations with the help of neutral third party
- Holistic resolution in the spirit of 'give and take'
- Consensual decision
- Transparent, neutral and fair process
- Solutions tailored to meet the interests and needs of the disputants

[44] The term judicial settlement has not been defined in the CPC. Per the Supreme Court of India in Afcons Infrastructure Ltd Vs. Cherian Varkey Construction Co. Pvt Ltd (decided on 26th July 2010), judicial settlement is a reference made by a court to another courtor judge to assist the parties enter into a settlement. In such cases the court or judge to whom the dispute has been referred for judicial settlement shall not act in its/his capacity as a court of law or judge, and shall act in accordance with the provisions of the Legal Services Act, 1987. *Conciliation in India: An Overview*, available at psalegal.com/.../DisputeResolutionBulletin-IssueVII08092010070309PM... accessed on 25.5.2015.

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- Bearing the potential to save and maintain interpersonal/working relationships
- Durability of agreements
- Help parties bury the past, preserve the present and seek a better future
- Emphasis on restorative justice

The importance of resolving disputes amicably can be gauged from the quotes of two renowned personalities which I mention below;

Abraham Lincoln once said, 'Discourage litigation. Persuade your clients to compromise, whenever you can. Point out to them the nominal winner is often a real loser; in fees, expenses and waste of time. As a peace-maker, the lawyer has a superior opportunity of being a good person. There will always be enough business. Never stir up litigation. A worse man can scarcely be found than one who does this. Who can be more nearly a fiend than he who habitually overhauls the register of deeds in search of defects in titles, whereon to stir up strife and put money in his pocket? A moral tone ought to be infused into the profession which should drive such men out of it.'[45]

Mahatma Gandhi in his autobiography wrote, "…I had learnt the true practice of law. I had learnt to find out the better side of human nature and to enter men's hearts. I realized that the true function of a lawyer was to unite parties riven as under.

The lesson was so indelibly burnt into me that a large part of my time during the twenty years of my practice as a lawyer was occupied in bringing about private compromises of hundreds of cases. I lost nothing thereby- not even money, certainly not my soul."[46]

Inspite of government initiatives and attempt at institutionalization, the popularity and use of ADR is still on the low side. Much has to be done on the propaganda front to make the system more popular. The movement for ADR is in its infancy in India as the people still has to grasp the feasibility about alternative methods to litigation. In a developing and resource scarce country like India, alternative dispute resolution mechanisms bear the potential of scoring high on moral fronts because of its ability to resolve disputes without much heartburn and agony. With proper managerial and institutional support ADR mechanisms bear the real potential of constructing dispute adjudication system that is both more responsive and citizen-friendly.

There is still much want of spreading awareness of ADR through public mechanisms of direct people interaction and through intellectual methods of conducting seminars and workshops about its potential and real benefits. There is need to extend services and benefits of ADR mechanisms to those directly affected by the hassles of formal litigation. The advantages of ADR techniques must directly percolate to the grass-root since the uneducated and resource less people bears the scourge of the formal system. Since the rural masses remain ignorant about their basic rights, it is imperative that legal aid campaigns and awareness drives be organized to cognizance them of their rights to 'speedy justice'. They must be made aware of the fact that they have the right to 'accessible justice.'

[45] Frederick Trevor Hill (1906), *Lincoln, The Lawyer,* New York, Century Company, p. 102-103.

[46] Mahatma Gandhi, *An Autobiography or The Story of My Experiments with Truth*, (Translated by Mahadev Desai), Ahmedabad, Printed and Published by Navjivan Publishing House, pp. 133-134.

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End notes

[i]Indian Institute of Arbitration & Mediation is a non-profit organization registered under the TC Literary Scientific and Charitable Societies Registration Act, 1955. The institute was formed by a group of professionals and businessmen in the year 2001.
[ii] Centre for Alternative Dispute Resolution (CADR) is a Public Charitable Trust registered with the Charity Commissioner.

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The Integration of EFA and CFA: One Method of Evaluating the Construct Validity

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Abstract- The approach of evaluating the construct validity has little development in the past one hundred years. As the theory of EFA and CFA had been proposed and refined these years we can find that they are good methods to evaluating the construct validity. This paper give a concepts of construct validity firstly and then analyzed the shortcoming of existing methods of construct validity evaluating, then stated the traits of EFA and CFA, based on them we summarized that using EFA and CFA together is a good way to evaluating the construct validity.

Keywords: measurement and assessment; construct validity; FA; ETA; CFA.

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The Integration of EFA and CFA: One Method of Evaluating the Construct Validity

Zhongfeng Hu [α] & Juan Li [σ]

Abstract- The approach of evaluating the construct validity has little development in the past one hundred years. As the theory of EFA and CFA had been proposed and refined these years we can find that they are good methods to evaluating the construct validity. This paper give a concepts of construct validity firstly and then analyzed the shortcoming of existing methods of construct validity evaluating, then stated the traits of EFA and CFA, based on them we summarized that using EFA and CFA together is a good way to evaluating the construct validity.

Keywords: measurement and assessment; construct validity; FA; ETA; CFA.

I. Introduction

Validity is the most important and difficult problems in human behavior measurement. The classical definition of validity refers to the degree to which the measurement achieves the goal, which was proposed by some specialists of American Educational Research Association, AERA, in 1921 (Cronbach, 1969). In World War II the public was concerned about the validity of pilot selection, which led to many researches about it. Many concepts of validity arose in a short time after World War II, including criterion related validity, factor validity (Guilford, 1946), face validity (Mosier, 1947), logical validity, experience validity (Cronbach, 1949), internal validity (Gulliksen, 1950) and so on. In order to solve the problem of the validity concept being in massive confusion, and criterion related validity being emphasized too much, American Psychological Association, APA, sorted these concepts into four kinds of validity: content validity, predictive validity, concurrent validity and construct validity (APA, 1954). The traditional definition of construct validity refers to the degree to which a test measures what it claims, or purports, to measure (Cronbach & Meehl, 1955). Modern validity theory defines construct validity as the overarching concern of validity research, subsuming all other types of validity evidence (Messick, 1995; Schotte, Maes, Cluydts, De Doncker, & Cosyns, 1997).

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II. Development on Construct Validity Evaluation

There has been slowly development on validity evaluation in nearly the past one hundred years, especially of construct validity (Henry, Douglas & David, 2002). The method of construct validity evaluation was nearly always Campbell and Fisked's Multi-traits-Multi-methods, MTMM (Campbell & Fisked, 1959), and it was always used incorrectly, ignoring two important points: firstly MTMM is mainly to calculate convergent validity and discriminant validity rather than construct validity, secondly it demands the formation of a structural equation model, SEM, but very few researches did so. MTMM is impractical in fact because it is difficult to form a structure through different ways or to get different structures in one single way. When people cited MTMM they usually used the correlation matrix in Campbell's research but with little development.

It is necessary to make some efforts to develop methods of structure validity evaluation. One method is integrating factor analysis methods to evaluate the construct validity (Hu & Mo, 2007). This idea has been put forward earlier in 1946 by Guilford (Guilford, 1946). Later Eysenc strengthened this view in 1950 (Eysenck, 1950). Cronbach and Meehlpe regarded factor analysis as an effective method to computing the construct validity in 1955 (Cronbach & Meehl, 1955). Yet limited to the method of EFA, evaluating of construct validity was difficult then.

The traditional factor analysis is exploratory factor analysis (EFA), confirmatory factor analysis(CFA) was added till 1969 (Zhongfeng & Lei, 2002).

III. Problems About Traditional Factor Analysis—EFA

There are several problems concerned EFA, in the implementation process of EFA the researcher should make a series of important decisions.

a) Questions about research design

The most important issue with EFA research design is choosing variables. The public factors must be included in the measurement variables, and the variables must be closely associated with the research topic, otherwise it will lead to false public factors. Statisticians suggest that the measurement variables

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had better be 3-5 times public factors. The second important issue with EFA design is about the sample. The researcher must decide the size of the sample and how to sample. Statisticians suggest that the size should be decided by the quantity of the variables. For example, Gorsuch suggested that the standard should be one item corresponding to five individuals, and the sample should include at least 100 individuals (Gorsuch, 1983). Researches have recently proposed that the size of sample isn't a function of the variable quantity because the public contribution ratio is bound to be increased if the public factors are overabundant. Thus even if the quality of a test is satisfied, the size of a sample should be over 200 individuals. According to the study of Comrey and Lee (Comrey &Lee, 1992), the outcome will be good enough if the size of the sample is over 500 individuals in factor analysis, and 1000 or more would be even better.

What the researchers should think further is the specification of the samples. The scope may be limited if the consistence of the sample is too high, which will affect the correlation among variables. Therefore, different individuals should be chosen to maximize the variance of the measurement.

b) To decide whether or not EFA is suitable

EFA aims at finding out a few public factors to represent and explain more measurement variables. Only when the researchers expect to testify the latent variables will they use EFA. When they make these decisions, the key point is to distinguish the difference between latent structure and date classification. Data classification uses combination of fewer data to replace more measurement variables to maintain the original information, but construction of correlation model is unnecessary. The distinction between latent structure and date classification is important because approaches to the two goals are different. For a simple structure, EFA is suitable. For classifying the data, Principal Components Analysis (PCA) is more suitable (Fabrigar, Wegener, MacCallum & Strahan, 1999; Suhr, 2009). Some researchers mistakenly think PCA is a type of EFA (Bentler & Kano, 1990).

c) To Choose suitable program fitting the models

The most widely used programs fitting the models are Maximum Likelihood Estimation (MLE), and Principal Components (PC). The main advantage of MLE is that it allows the wider range of model fitting index than other methods while its main limitation is the demand of multi-norm distribution.

d) To Determine the quantity of public factors

In EFA the researcher must determine the quantity of factors in the model. It is generally thought that more errors will occur if too few public factors being extracted than too many being extracted (Thurstone, 1947; Rummel, 1970; Cattell, 1978).

The most famous standard of deciding the quantity of factors comes from Kaiser's computing the eigenvalues (Kaiser, 1960). This method is simply and objective, but it has several obviously problems: firstly it usually be used incorrectly; secondly this standard sometimes seems to be inflexible; finally it might lead to too many or too few factors. In addition this method will easily be effected by sample size.

Another famous method of deciding the factors quantity is "scree test" (Cattell, 1966). But this method is too subjective. The most shortcoming of it is the concept of break point hasn't a clear definition; secondly if the scree plot is vague or it hasn't a clear break point, it is quite difficult to point out it. Moreover, this method has not a quality standard (Kaiser, 1970).

The third method of deciding the factor quantities is "parallel analysis" (Horn, 1965).There is another method of this problem by testing the regenerated matrix. Some researchers proposed that the quantity of factors is reasonable if the contribution ratio of all the factors is 75%-80% of the sum variance. Some others think the number of factors should be n/5 to n/3 (n means the number of items). Today new methods are keeping on appearing (Ruscio & Roche 2012).

e) Questions about factor rotation

The models in EFA are not sole if there are more than one factors in a research, and the researcher must choose one unique solution among the numerous equal models (Fabrigar & Wegener, 1999). In EFA, the most popular theory about model selection is "simple structure theory" proposed by Thurstone (Thurstone, 1947). He pointed out five terms meeting to simple structure rule. In order to achieve "the simple structure", it is necessary to rotate the factors (Gorsuch, 1983). There are orthogonal rotation method and oblique rotation method in rotation theories. Orthogonal rotation is based on the theory that the factors are independent of each other, while the oblique rotation doesn't have this hypothesis as its basis. Some researchers think orthogonal rotation is simple and the concept of it is clear (Nunnally, 1978), but that is not the truth. Firstly in the mental structure construction (e.g. mental abilities, personality traits, attitudes), with the basis of the theory or their experience, people usually think that the factors are related to each other. Secondly because the orthogonal rotation requires the factors to be oriented at 90, they may get a worse simple structure if the factors are related to each other. Finally oblique rotation can provide more information than orthogonal rotation. An estimation of the correlations among the factors can be got through oblique rotation, which is helpful for interpretation of the public factors.

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f) Problems about factor naming

Factor naming is beyond the scope of EFA, and becoming a specific question in research area, while the statisticians are powerless.

Many researchers explain the factors by inferring the mental process according to the measure variables high loaded on some specific factors. Because mental phenomena in FA are invisible, the researchers' subjective inference always be arbitrary, and different researchers have different opinions on the same test, which will lead to arbitrary explain on the factors.

However, there still are psychologists who keep putting forward methods to solve such problems, one of which is called "active identification" (Mo, 1989). "Active identification" analyses factors based on reality activities. With public factors obtained, researchers will divide the items into several sub-tests based on the factors which have maximum loading. Then sub-test will be carried out on individual students, after which researches give the complete process qualitative analysis to interpret the mental process and explain the mental essence of the factors depending on the outcomes. This way of factors identification is more objective and scientific than traditional ones.

EFA is the stage of exploring the relevance among the common factors and measurement variables, thus there is not index in EFA to show which model is better, which is main restriction of construction validity evaluation.

CFA is different from EFA in the way that CFA aims at testing the effectiveness of the model by using the data (Suhr, 2006). If the initial hypothetic models are rejected, we should make further efforts to find out and explore the true structure of the topic by modifying and testing the model based on the data. In confirmed models, there may be some public factors which are not interrelated with each other, and observed variables only affected by some of the public factors; some observed variables may proved to be related to some particular factors, while some others proved not related to the same group of particular factors (Thompson, 2004).

IV. One Method to Evaluate the Validity of Construct

In 1969 Sweden statistician Jöreskog proposed the theory of Confirmatory Factor Analysis (CFA) and it's method (Jöreskog, 1969), from then on factor analysis went into a new generation. Since 1946 statisticians think factor analysis is a good method to evaluate the validity of construct, this became practical when CFA has been proposed.

a) Characteristics of CFA

The basic idea of CFA is: the researcher will form a model in it the factors pertinent with each other, which comes from inference and hypothesis based on previous theories and knowledge. Many variables in social and behavior study can not be observed directly, or they are only the researcher's theoretical ideas, thus many factors in the model are potential factors. In order to make these potential factors to be displayed effectively and reliably, we should choose various variables to measure each potential factor. We can get a set of data of the observed variables to form a co-variance matrix, which is the base of CFA. In CFA, the researchers should judge the value of the public factors depend on the previous experience and some related information, at the same time they also should evaluate some parameters according to the situation in the model. Once the model has been defined the researcher can estimate the parameters based on the co-variance matrix and test the fitness of the model with the data. If the fitness of the model is not appropriate and cannot be accepted, the researcher need to modify the definition of the model.

CFA is different from EFA that the former aims at testing the effective of the model by using the data. If the initial hypothesis model are refused we should make further effort to make sure the true structure of the problem, by modifying and testing the model depended on the data. In confirmation models there may be some public factors are not interrelated with others, and the observed variables only be effected by some of the public factors, or some observed variables have relationship with some particular factors while some others has not relationship with these particular factors (Thompson, 2004).

b) Integration of EFA and CFA

CFA and EFA in fact are two stages of a whole process and can not be separated sharply. If the researcher can use these two method together the research will reach a deeper degree. Anderson suggested that during the procedure of proposing a theory should better to establish a model by EFA and verify the model or modify the model by CFA (Anderson & Gerbing, 1990). For example we can use EFA in one sample to find out the structure of factors, then use CFA to test or adjust the structure in another sample. The procedure are called cross-validation. Actually EFA and CFA not only have difference but also have relationships so they are two sides of one thing. EFA and CFA are all based on public factors model and looking forward to find the potential variables to establish the models about the measuring variables. EFA provides concepts of the hypothesis and calculating tools, these are important basis and guarantee for the establishment theory in CFA. It is incomplete if anyone of EFA or CFA is lacked in factor analysis.

In terms of the differences between EFA and CFA, we will find that EFA is a data-driven method, in which there is no distinct public factor numbers and few limitation in public factors or potential variables

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beforehand. EFA provides the program to forming models according to the data, defining the number of factors and factor loads in the models. On the contrary, in CFA researchers have to provide some hypothetical models had been defined factors numbers or load could be different with each other. EFA acts the role of providing important basis in proposing hypothesis and CFA proves or disproves the hypothesis. Usually we should combine EFA and CFA in a research. EFA is the base of CFA by providing a hypothetical model. If the size of the sample is big enough we can split the sample into two parts randomly, one part to be analyzed by EFA and the other by CFA. The outcome of CFA can finger out which model of EFA is more suitable.

In short, EFA and CFA, as research methods, are two integral parts of factor analysis, which is a practical method to evaluate construct validity. The integration of EFA and CFA is very important for human behavior researches.

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John Keats's Sensuous Imagery in ''ODE ON A GRECIAN Urn”

By Sana Nawaz & Iqra Jabeen

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Abstract- Ode on a Grecian, by John Keats depicts his love and praise for beauty. The full poem is embodied with sensuous imagery. Here he presents the beauty of imagination that appeals to our senses and gives delight to our senses.

"Ode on Grecian" is different from other "Odes", because it is not desperate one.

Here he discusses two major themes.

1) the ethics of beauty
2) the permanence of art

Keats is in the favors of imagination and art. Because he thinks that it provides pleasure to human nature.

Keywords: beauty, truth, art, imagination, visual images and imagery.

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I. Biography

John Keats was born in 1795. He was one of the most pioneer personality of 19th century. He was a romantic poet and also known as a sensuous poet, because he used audio-visual images in his poetry. He wrote poetry for himself only. Because for him, poetry is that type of art that gives delight to our senses not for the representation of philosophical thoughts and ideas of anyone.

He covers all the themes that appeals to our sense. He actually claims in one of his letters;-

" O for a life of sensation

than of thoughts "

As the theme of this poem that sums up in last two lines.

' Beauty is truth, truth beauty'

This article is basically about the analysis of the poem, and it's difficult to analyze the nature of the language of literature. As Brook (1975:3) says, "the language of poetry is the language paradox. It is not common language".

II. Method

The method used to analyze this poem is "The New Criticism mechanism", that provides the deep study of the works of literature.

III. Findings and Discussion

"Ode on a Grecian Urn" is basically a praising poem in which Keats praises the beauty of the Urn. There are total five stanzas, each having ten lines.

1st Stanza

This stanza is about the "Urn", the poet praise the Urn while gazing it. He calls it "unravished bride" and "foster child". Firstly, he praises its quite presence on the Earth that is away from the worldly affairs still. That's why he calls it "unravished bride". Poet calls it foster child, because no one knows its parentage and time takes him as foster child. The Urn is representing the countryside . The poet raises the questions that what are all these pictures? He admires this art and says,

" flowery tale more

sweetly than our rhyme"

He actually gives preference to art over poetry. Here he use different images like pipers trees represented on the Urn.

2nd Stanza

In the second stanza Keats speaks about the superiority of art over nature. As he is in the favor of imagination because it gives pleasures to human beings. Imagination is always attractive for everyone. A real life scenes come to an end but imagination will always come with continuity. He says that things lose its charm when it happens. Like emotions of anyone gets satisfaction in imagination. He says that in imagination he can hear, unheard melodies that is related to our senses.

" Heard melodies are sweet,

but those unheard"

Everything that preserve through art has no end. Like the piper's song, leaves of trees and the love will remain fresh forever. In fact the beauty of that girl will never vanished and she will remain young and beautiful.

3rd Stanza

The notable thing in this stanza is the repetition of word "happy". Why he repeat this word? Because he thinks everyone is happy of imagination. Piper is happy, because his song will remain fresh and new forever. Trees are happy because they never shed their leaves and remain as it is. Love is enjoyable till than it attains the last stang. In real love one gives sorrow and

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sadness, but in imagination, there is no misery and sadness. That's why, he prefers imaginative world over real world. The joy of art is something eternal and is far more satisfying than joys of real life which end in a sad satiety

4th Stanza

Here he discusses an imaginative picture of town delineated on the Urn. The town is empty because its inhabitants are busy somewhere else in ritual ceremony. This picture is depiction of his fancy. He also talk about the permanence of art .That town will remain empty forever. By seeing this picture he raises some questions? That for whom God and goddess this sacrifice is doing? From where they people are?

He also says that town will remain empty and it will not come to know where its inhabitants? In the words of Dohner" the picture of the victim is complete and perfect. The attitude of heifer stretching out her neck to low at the skies is quite natural; so the soft glossiness is indicated by silken flank.

5th Stanza:

In this stanza, he sums up the message of this poem in five pregnant words.

" Beauty is truth - truth beauty "

For him beauty is everything, as he said;

" A thing of beauty

is a joy forever"

- Keats: Fndymion

He continuously gazes at the Urn for its beauty and the pictures curved on the sides of the Urn. The sense of sight is active.

" O attic shape ! Fair attitude !with Brede

Of marble men and maidens overwrought,

With forest branches and the trodden weed; "

(41-43)

Then he calls a friend to man, it's simply means that for him, art is the friend of human beings. He expresses his idea about the "ethics of beauty" and " infinity of art"

IV. Conclusion

This Ode is different from other Odes of the Keats because this Ode is not the desperate one and having wonderful theme, i.e. beauty and permanence of art. The poet use different sensuous images to convey his message. He use different techniques to make beautiful his ode. This poem is paradoxical poem.

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The Effect of Christian Religious Education on Traditional Marriage Customs among the Tiv, Central Nigeria

By Ushe Mike Ushe

National Open University of Nigeria, Nigeria

Abstract- Marriage over the years has served as the institution of social value and a symbol of maturity in the society. This was the case up to the eve of the coming of Christianity and western education. The situation however, changed after Christianity and western education took firm roots on African soil, leading to the erosion of Tiv traditional marriage in contemporary times. The introduction of monogamy (western form of marriage) has infiltrated Tiv traditional system of marriage to the extent that it now finds expression through elements proper to Tiv culture, transforming or remaking it to bring about a "new creation." This paper sets out to examine the effect of Christian religious education on traditional marriage customs among the Tiv, North central Nigeria. The paper utilized qualitative approach which makes use of secondary sources and participant observation in collection and presentation of data. The paper observed that Tiv traditional marriage has experienced an infusion into Christianity due to the advent of western civilization in Nigeria. The paper recommends among others, that an infusion of Tiv traditional marriage into Christianity should be made to contextualize those practices that are not in line with the Christian oriented practices.

Keywords: *traditional marriage; christian religious education and nigeria.*

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I. Introduction

For us to meaningfully discuss the effect of Christian religious education on traditional marriage among the Tiv, North Central Nigeria, it is pertinent that we have a thorough grasp of what marriage and Christian religious education are all about. It is rather unfortunate that Tiv traditional marriage has been misconstrued in the African context as well as many other parts of world. In African society for example, marriage is gradually becoming an issue of debate. The general outlook of marriage among the people is making it a bit difficult to critically discuss the Tiv marriage without being wrongly presented. This is because some people find it difficult to understand Tiv traditional system of marriage. And in an attempt to present issues as these, they end up "Confusing" the values of traditional marriage with Christian-Oriented-Practices. Traditional marriage as an institution created by God has a vital role to play in the sustenance of human society. The desire for Nigerians and Tiv to choose themselves what they desire, led to infiltration of traditional marriage and the embracement of monogamy form of marriage in contemporary times. The introduction of Christian religious education finally paid off when the European missionaries forced the Tiv to abandoned their calling and accommodate the spirit of compromise in the name of conversion. Consequently, this abandonment led the Tiv people to adopting western civilization for the destruction of Tiv culture, traditions and practices.

a) *Conceptual Clarifications*

The concepts that need to be clarified are as follows:

i. *Traditional Marriage*

The word "traditional" is part of ordinary linguistic usage. According to the author in [25], its general meaning connotes something that is old system, archaic or naïve. On the other hand, marriage is described by the author in [5] as:

> The state of being husband and wife… The legal union or contract made by a man and woman to live as husband and wife… it is also defines as a serious commitment between a man and a woman which involves social religious or legal ceremony formalizing them as husband and wife.

The Author in [19] sees traditional marriage as the union between a man and woman to live as husband and wife based on cultural laws and practices. This commitment makes people to comprehend human maturity and the need to continue the work of procreating human family. Based on this reason, Tiv traditional marriage is an instrument of human development and effective institution upon which the marriage system operates. In Tiv society, the traditional marriage system is viewed in line with something that is natural and a duty every individual has to perform in the society. It is in this context that the social and moral values of marriage are viewed in relation to the society.

ii. *Christian Religious Education*

The term education means different things to different people. It is better described than defined. Thus, the authors in [13] have indicated that education is the oldest discipline in human history; therefore, it may not be easy to come out with a definite and universally acceptable definition of the term. This

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notwithstanding, the author in [11] defines education as "the process by which an individual acquires knowledge, attitude, skills and values". The author in [8] defines education as the importation of knowledge that affects discipline and maturity in the recipient to enable him/her survive as an independent entity. Another author in [1] describes education as knowledge; a systematic cultivation of the mind and other natural powers of the mind and powers on the acquisition of knowledge and skills through training and instruction. In fact, we neither have the space nor time to consider such definitions of education which are numerous. However, in the context of this paper, Christian religious education can be defined according to the author in [23] as "the process of learning introduced by the missionaries to shape the minds, beliefs, attitudes, and values through acquisition of knowledge, skills and trainings or instructions". This definition in our view is the most acceptable one because it includes all aspects of formal education.

b) Traditional Background of Tiv Traditional Marriage Customs

Marriage as we all know is very important for the increase in population. The author in [4] underscores the importance of marriage as having a vital and organic link with the society since it is the foundation, which nourishes it continually through the role it plays in life. In his own words:

> Marriage is the most fundamental social institution in human society… A man's dignity consists in being a woman's head and a woman's dignity in being the glory of the man to preserve the husband clan and to continue the one that already exists.

The author in [17] referring to the purpose and importance of marriage in the society, elucidates that:

> Marriage is a covenant of undivided affection between a man and a woman, ordained by God for the purpose of increase of human family and the education of children… Marriage is a revocation consent which each partner freely bestows on and accepts from the other, the unity and fruitful love, which exists between them. This imposes total fidelity on partners and argues for unbreakable oneness.

He above views shows that marriage is the first school of social virtues, which, is the animating principles of the existence and development of the human family or the society. Thus, in Tiv society, marriage is the discernible and most encompassing reality of life. It is something of sacred obligation and any adult that refuses to Mary is seen by the society as either cursed or abnormal. Marriage being a social institution has societal values, most of which are the socio-economic and religio-political values. Based on the above understanding, Tiv people consider any gesture or favor done to parents-in-law as part of *kem* (dowry) and could always say that *kem kwase ngu* been *shie mon ga (*the dowry cannot be paid at once).

Marriage in this context is therefore, a community affair which involves a long period of preparations. The bride is chosen by members of the family based on moral standard, hard work, and level of obedience, politeness and honesty of the man involved. Sometimes, the choice of a lady for marriage is done considering her background or family lineage of the lady in question. This is why a Tiv man would tell a person looking for a woman to marry, "go and marry from so and so family" or vice versa because "so and so family is good." The Tiv person has a conviction that if such a lady is not from a disciplined home or good family, she could be a problem to her husband and the society where she is married at large. Other people also express the fear that the offspring's of such an undisciplined woman might introduce the gene of wickedness in their community or family. This makes the Tiv people to be inquisitive and selective in choosing a place and family to marry a woman since marriage is a serious commitment.

The author in [4] asserts that even in the case of divorce where a woman is abandoned to remain on her own, she is still called by her former husband's name. And if she eventually dies, her remains are buried in the compound of the former husband, especially when there are children born in the former husband. Before the coming of Christianity and Western Civilization, people cherished polygamous marriage. But with the tide of socio-cultural change brought about by cultural integration, most Tiv people now prefer monogamous marriage to a polygamous one. Even thought the traditional Tiv people view polygamous marriage as more appropriate because of their belief that a man's prestige is measured according to the number of wives, children and farms, which he has. Yet, due to Christianity and modernization contemporary Tiv people are made to see polygamy as an archaic way of life that is worthy of renunciation. These facts accounts for the problem involving different forms of marriage in contemporary Tiv society.

c) Taxonomy of Tiv Traditional Marriage

According to the author in [12] there are many types of marriage in Tiv society. These forms of marriage are products of the first system of marriage introduced in Tiv society but were later abolished by the colonial masters. The Tiv refer to this type of marriage as "Exchange marriage".

i. *Exchange (Yamshe) Marriage*

The word "*Yamshe*" literally means, "Buying by the eye. In the exchange marriage context, this emphasizes the importance of having a blood-sister with which one could make an exchange for the blood-sister of another distant fellow Tiv man as a wife. This exchange results in both men getting married at the

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same time, in the same way and having husband at the same time. The blood-sister used in exchange marriage must be the one assigned to the man that is using her in exchange marriage for his own wife. This system of marriage whereby a man used his own blood-sister in exchange with other distant fellow Tiv man's blood-sister as a wife was called "*kwase u ishe yamem"* (trade by barter). Exchange marriage (*Yamshe)* in traditional Tiv society was the first and fundamental form of marriage. It did not involve dowry, but rather, the marriage was based on mutual agreement between the two families.

The essence of exchange marriage was to foster continuity of the family lineage. By its very principle, exchange marriage terminates if one of the exchange sister fails to produce children. In such a case the parties involved agreed to share the children of the one that is productive and the exchange marriage continues. But in a situation where by the woman that produces children are reluctant to share her children equally with unproductive woman used in exchange with her, the marriage terminates automatically. The exchange of marriage system as earlier stated was aimed at filling the gap or vacuum created by exchange of both sisters in the two families. It is worthy to note that even thought no much material benefits were enjoyed in exchange marriage system; yet, it contributed in a way by uplifting the dignity of women in Tiv society due to the rights acquired by their children raised during such marriage. This system of marriage in the view of the author in [14] has divergent effects on Tiv family system and was later abolished by the British colonialists in 1939. As the saying goes, when one door closes, another is opened, so also did the collapse of (exchange marriage system) (*Yamshe*) which gave rise to *kem* (Bride-price marriage system) in Tiv society.

ii. *Bride-Price Marriage (Kem)*

The word "*kem*" in Tiv language according to the author in [24] literally means "little-by-little", or "bit-by-bit", "acquisition", "addition", "continuous multiplication of whatever one is doing either on the farm, financial enterprise or becoming increasingly knowledgeable. *Kem* (bride-Wealth) was a form of marriage based on the declaration of the consent of the bride and groom. This began when a man stated to make an overture for marriage. He was expected to offer gifts to the prospective mother-in-law like a hoe, necklace, dish, salt and money. Whilst he also gave presents, especially a piece of cloth to his father-in-law to tie round his waist as an indication that he is seeking an approval from the prospective father-in-law to marry his daughter.

Other relations, especially the eldest member of the family was equally offered material gifts to make him facilitate the marriage negotiations and to give his final approval. One thing that should be noted here is that *kem* (bride-price marriage) was less money involving in pre-colonial times. The ideal of using material things like money and other related gifts mentioned above was a super-imposed practice on Tiv people by the British colonialists. Since then the practice degenerated into a materialistic disposition in Tiv society, especially in matters to dowry. The author in [22] maintained that the effects of these changes on Tiv marriage system are that many forms of marriage have been introduced into Tiv land and today most Tiv youths look for alternatives since *kem* (bride wealth) is sky-rocketing day-in day-out. This financial and material increment in *kem* (bride-price marriage) coupled with the other difficulties involved in resettlement of divorced couples has really make it a heavy burden for people willing to get married in contemporary Tiv society. Consequently, some people prefer to indulge in another form of marriage system know as (*kwase uyevese amin*) elopement marriage.

iii. *Elopement Marriage (Kwase u Yevese Amin)*

Elopement marriage is one of the commonest practices of getting married in Tiv society. It is so pronounced because people find it easy to have a wife without going through the rigors of *kem* (dowry Payment). The interviewee in [2] states that elopement marriage can be in two ways: first, by running away with a woman when the man is unable to complete the necessary marriage rites. And second, when a young person captured a girl as his wife without paying dowry. This form of marriage is not so common in Tiv society. Another interviewee in [10] asserts that elopement was the system of marriage practiced in pre-colonial Tiv society, especially by the lords and warriors who could compel any beautified lady of their own choice to marry them. Sometimes, young people who found marriage difficult but had strong family members were able to marry in this way for them. This was done by capturing a woman of their choice when she was on her way either to the market square or farm or river to fetch water or any other place. The suitor sets an ambush with his friends or some of his relations to kidnap the lady in question as a wife for him. However, with the advent of modernization and cultural integration, Tiv society has experienced socio-cultural changes, especially in matters regarding marriage practices.

Today most Tiv youths and even adult no longer accept this form of marriage. Marriage by capture in contemporary Tiv society has become a barbaric form of behavior because it is viewed or interpreted as an abuse of the brides consent. This is why it is mostly referred to as *"kwase u eren sha mkiir*" (marriage by conquest or force). Even thought marriage by capture seems to be an unacceptable practice in modern Tiv society, promiscuous acts sometimes lead to it, especially when two persons are caught in the very acts of fumigation or adultery. This is even worse when an unmarried girl gives birth to a bustard child in her father's house. She is forced to marry anybody chosen

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by her parents or family relations without her own consent. This was done to curtail the re-occurrence of this ugly act and to serve as a different to other young ladies in Tiv society. The interviewee in [16] opines that the Tiv attach great importance to marriage and for a lady to know a man or break her virginity without any legitimate husband is a serious crime that involves drastic actions by her society.

In most cases, the man involved is asked to untie the virginal cowry or pay money for breaking the virginity of the lady if he refuses to marry her as the case may be. Sometime, both of them (the boy and girl) are forced by the society to marry themselves. This explains how Tiv society upholds in high esteem its cultural values, especially virginity. The most complex case that leads to the above form of marriage is when a lady is caught in an act of adultery with a man. In which case, if the husband of the woman rejects her as his wife, then, the man caught in the act of adultery is sometimes compelled to marry the woman as his legitimate wife hitherto, or alternatively, the man could be asked to pay a required amount as restitution for the damages done to the husband of the woman and the family. These practices are no longer respected by Tiv people due to advent of western civilization.

iv. *Leverage Marriage (Kwase u Tôôn)*

Leverage or inheritance marriage is the form of marriage whereby a blood relation of the deceased husband inherits all the properties including the wife. Sometime, the deceased son is asked to inherit the wife if the father was a polygamist. The essence of this system of marriage was to take care of the widow emotionally and other wise. It was also meant to raise more children for and on behalf of a deceased brother, father or kin as the case may be. One important thing to take note here is that, marriage by inheritance was mostly practiced in pre-colonial Tiv society. And the practice then was borrowed from Tiv neighboring ethnic groups such as Udam people (Cross- River States), Igbo, among others, which may have perhaps, imported it from the Hebrews as stated in [7] thus:

> If brothers dwell together and one of them dies leaving no child, his wife shall not be allowed to marry outside the family to stranger. But his brother shall inherit her and raise children for the deceased brother… However, if the deceased brother has children, then the brother should take care of them.

Though leverage marriage was an injunction given by God, it was an imposed practiced on Tiv people and because of the numerous effects it has on Tiv society, most Tiv youths and adults no longer accept the authenticity of such a practice. Many Tiv people are of the belief that leverage or inheritance marriage does more harm to Tiv culture than good. Some Tiv people even question the legality of leverage marriage by asking the following question: can a dead man give birth to a child? If not so, how can a child born after the deceased: person be named after him; rather than his/her biological father? Can the widow inherited allowed the man to marry his own wife? All these are legitimate question that could be asked by any thoughtful individuals, and such have been the problems associated with inheritance marriage. It becomes even more pathetic in cases whereby certain men end up not marrying their wives and at the same time not having their own children. Due to all these facts, contemporary Tiv society frowns seriously at this kind of marriage. Most Tiv sons and daughters consider this system of marriage as ancient, thereby, has no regard for it.

v. *Marriage by Self-Imposition (Kwase u Nyôron)*

Marriage by self-imposition is the most shameful from of marriage in Tiv society. It was the form of marriage practiced in pre-colonial times, especially by people who were considered as *agbenga ior* (those lacking in morals). Whenever such people were greeted *or nyor kwase* (an immoral man who marries by self imposition), he would reply shamefully, *kpa mfa kwagh u meren yo* (but I know what I am doing). The way Tiv society used to look at people of this kind indicated how the society frowns at marriage by self-imposition (*kwase u nyoron)*. Today, most Tiv people see this form of marriage not as completely useless as conceived in pre-colonial Tiv society.

Many enter into it as a means of substance or better still, enhancing their economic status in life. Though self imposition, the man in question completely avoids his home or family and pack into the resident of the woman. Yet some Tiv people still see this form of marriage as a good one. Whatever material benefits one derives from marriage by self-imposition, thing we must bear in mind is that the Tiv people frowns at it and those who imposed themselves on women in the name of this form of marriage are simply considered to be unserious minded.

vi. *Marriage by Convenience (Kwase u Sha Ime Mnger)*

Marriage by convenience was not common in pre-colonial Tiv society. It was the form of marriage contracted at convenience of the couples themselves. Marriage by continence *(kwase u sha ime mnger*) according to interviewee in [20] was usually arranged when a person felt that he/she has no body to take good care of him or her. In such a case, he/she may decide to marry a person of his or her type for convenience sake. In most cases, a widow or widower who has nobody to take good care of him or her but needs assistance may decide to marry a man or woman of his or her own choice without payment of dowry. This form of marriage was based on mutual understanding between the two adults involved. Even today, this form of marriage is still in practice. But one fascinating thing to know here is

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that, as against the Tiv culture of burying the dead woman in her husband's home, a woman who entered into marriage by convenience, was taken to her own father's home at death for burial, especially if the husband's people are not buoyant enough to give her benefiting funeral rites. Despite the repercussions involve in marriage by convenience, many Tiv elders, widows and widowers prefer it since it does not involve any payment of dowry.

d) Marriage Preparations in Tiv Society

In Tiv society, preparation for marriage is elaborate. Certain qualities are expected of a man or woman before marriage. The authors in [18] listed these qualities to include: good morals, respect, honesty, good family background, amongst others. A would-be wife is usually approved by the community. In pre-colonial Tiv society, a man searching for a lady to marry was often directed to a girl known to have possessed such qualities as numerated above. Thus, he may be told "go to so and so person's family and marry his daughter. She is not pretty but has good character". Even in contemporary Tiv society, nobody intends to marry a lady that is not approved by the society. There are few exceptional cases whereby some Tiv people decide on their own to marry a lady without the approval of other people in their families. The arrangements for marriage in Tiv society according to the author in [21] therefore, begins with courtship.

The two families (that of the would-be-husband, and that of the would-be wife) also check to see if there are any impediments to the proposed marriage. They have to ascertain that the planned marriage will take place according to the Ti exogamous principle. For, if it is discovered later that the marriage took place within the forbidden degree of consanguinity, it would be declared invalid, and both sides would have to kill the promise (Wuatia). This according to the author in [23] entails killing a goat and shaving it equally between the two families involved in the marriage. Due to the communitarian aspect of marriage, and the desire to avoid endogamy, when a Tiv man and woman meet far away from their homes, marriage may not take place until members of the two families get to know one another, and normal procedure is followed.

The formal marriage introduction precedes courtship period cautiously. During introduction great care was taken to see that everything goes according to acceptable procedures. The marriage event does not take place at one moment of time. It involves negotiations, financial supports, such as exchange of gifts, assisting the parents of the would-be wife in farming. Since marriage is an alliance between two families, it is desirable to be kept alive by mutual relationship and concerns. After the introduction, comes the payment of bride price (*Kem kwase*) on the day the parent. The suitor is expected to assist the parents of the lady in farming. This is done according to the author in [24] to show the parents-in-law whether he can take care of their daughter and assist them when the need arises for him to do so. Sometimes, the parents might decide to give their daughter to the suitor after he has farmed for them, as was the case in pre-colonial times. After the introduction, comes the bride price (*kem kwase)* on the day the parents, relative and children are expected to gather to perform all the marriage rituals such as: *ikyundi I orya* (money for the head of the household or family), *ikondo I ter kem* (the cloth of the prospective father-in-laws), *a toon a taav* (money for tobacco), *a suwa a tondom* a (money for silencing of the noisy youths), *adzenga a kem* (the amount of the bride price), amongst others.

Also, certain things are provided for the mother-in-laws (*ungo mba kemv)* for the completion of the bride price. The interviewee in [6] listed these things to include: soft drink, bags of salt, red oil, necklace for the prospective mother-in-law, pig and the like. The suitor provided all the above mentioned things through an intermediary (*or suur kwase*). After the bride-price, the family of the intended wife sends a delegation to the home of the intended son-in-law (*Wankem*) to see and assess the place where their daughter mighty be living. This delegation was made up of the would-be-mother-in-law, and other women. If the family finds the home of the would-be-husband suitable, then the final arrangements for the marriage may commerce. The Tiv parent makes sure that his daughter does not only have the securing of physical sustenance, and happiness where she is married, but also protection against those who may have evil intentions towards her. In other words, a Tiv father also seeks to prevent his daughter from harm of witchcraft. Thus, every Tiv woman about to marry has a paternal uncle (*tien*) whose duty is to act as a go-between broker for the marriage and protector of the woman.

Even after married she is linked with another personage in the patronage of her husband known as *Ishuul* (supporter). He is the man to whom the woman first turns for support and protection outside her husband's immediate family group. The *Ishuul* is actually the father's representative. The father entrusts the immediate protection of his daughter to him. If the woman has serious problems with her husband, or his family, she may appeal to the *Ishuul*. Because of the religious implications in the marriage affair, youths are not allowed to give final decision alone about marriage. Marital arrangement is therefore not concluded with a young man but with his father and the elders who "can see in the day and in the night (witchcraft capability) and would be able to protect the woman. In this way, traditionally, a married woman symbolically refers to her husband's father as husband (*nom*) and her real husband as her husband *nom uhe gambe*. After the bride-price (*kem kwase*), the lady is given to the suitor

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as his wife and some delegates, especially woman were chosen to accompany them to the family house of the groom. To herald their arrival the interviewee in [9] continues that a song is announced (*angwe yoon*) by one of the husband's relations saying:

> *Angwe kpeee, angwe, ka u ana? Ka angwe u via, via, angwe ye nyam, nyam, nyam, ikaa I ruam, Angwe kaa kpagba! Kpagba kpagha!! A we lelelee!!!.* This is translated as "Here is the breaking news, whose news is it? It is the news of Mr. so and so. This news involves heavy feasting with meant. It is marriage of a new wife, the one who is to cook food for her husband and his people. The news vibrates sonorously! Sonorously!! Sonorously!!! What a wonderful event, let the joy spread non-stop".

With this announcement, other relatives and well wishers who are waiting for the arrival of the new wife (*kwase Uhe*) responded to the heralded song with appropriate cries and dance. The interviewee in [6] explained that this announcement opened the celebration of the arrival of the new wife with the mockery song of bachelors and their insatiable eating habits in order to spur other bachelor into marriage as follows:

> *Or u kwa hemba ye na a hungwa pepe I gbaan iyough me ya! Or u kwa hemba yam, a hunga pepe, pepe nahan a gbaar agbo ve! Or u kwa ye nyi? A gbagh agho ve!!!* This is translated as "The bachelor eats more than married people. He complains of hunger very early in the morning and asks for roasted water-yam. The bachelors eat a lot. Early in the morning he roasted water-yam himself".

On hearing this song of challenge, the groom who is leaving the bachelorhood then would slaughter a chicken, goat, pig or even a cow for the marriage celebration, depending on his financial strength. This celebration in honors of a newly married woman according to the interviewee in [3] is called *kwase u kuham*. A day after the celebration, the new wife is brought out and introduced to the head of the household (*or-ya*), who explained to her the regulations of the family. This is usually done in company of elderly married woman in the family after which the new wife begins to carry out her marital responsibilities within and outside the community.

e) The Effects of Christian Religious Education on Tiv Traditional Marriage

Education played vital role in marriage in every human society, including the Tiv. It provided knowledge and understanding for the parents of the couple involved. The decisive role which parents played in traditional marriages of their children indicated that it was in the very centre of human existence. In traditional Tiv and Jews society, marriage was a communion of life and everlasting covenant which deals with interpersonal relationship between a man and a woman. Although there was no known affirmation of monogamous marriage in Tiv culture, yet through traditional education the people understood that marriage was a communitarian affair. For instance, the families of both partners are directly involved and bride-price was paid by the family of the husband-to-be.

The traditional Tiv also viewed marriage as a cultural practice necessary for the continuance of their race and made it an obligation for every young adult Tiv. Parents of the bride and groom arranged marriages with little interaction between the spouses to-be themselves. This in the view of the author in [18] was not in any way to deprive the young persons involved in the marriage of their rights to choose the partner's they would want to get married to. But rather, it was a precautious measure taken by the parents so as to avoid dangers of having their children make wrong choices that would ruin their lives, family and the community. The role which bride wealth plays in Tiv traditional marriage concerned both wife-givers and wife-takers. The issues of when and how much the bride wealth should be paid were addressed with care by both parties. However, with the introduction of western education, traditional marriage especially exchange marriage was abolished and replaced contemporaneously within the creation of a momentary economy as legal tender in marriage.

This brought a sharp drop in the age at which Tiv men married, as even young people who might have been waiting for an exchange found difficult to marry by paying money as bride wealth. This consequently led to competition for women, with a resultant increase in bride wealth. Since then the trend of bride wealth has been upwards. In recent years, many Tiv feared that high bride wealth would make it difficult for young people to marry. The author in [14] states that Tiv traditional council in 1979 met under the headship of the Tor Tiv, Dr. Akpelan Orshi, and Pegged the money to be paid as bride wealth at four hundred naira. This action did not however, tame the tide of high bride wealth. Today, the bride wealth is calculated with respect to how much parents have spent on the education of their daughters. There are instances where people have been made to pay as much as ten thousand naira as bride wealth. Many people think that bride wealth should be regulated by the government because high bride wealth amounts to the commercialization of women are just the same as other goods leave been commercialized in Tiv society.

High bride wealth is tantamount to the sale of women. Others, however, contend that bride wealth is solely a family affair and there should be no external interference in it. The author in [12] asserts that this second made up of women, believes that high bride wealth wins respect for women because one would not mishandle what has cost one dearly. One cannot help saying that high bride wealth has been born out of a monetary economic praxis. In this praxis money

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determines the consumer power of the family. The problem of high bride wealth can only be solved if the Ti again sees marriage as an alliance between families, such as view would de-emphasize the monetary aspect in marriage transaction, and instead focus on the friendship, and mutual co-operation that should exist between families. The author in [9] has the following to say about the changes that have accrued in Tiv land and the discontinuity of some cultural practices of traditional marriage rites in recent times:

> …the eradication of what was obtainable in traditional Tiv culture and the replacement with western education and Christian oriented system, on the other hand, on the other hand, the embracing of Christianity as the one true religion that must be firmly established in Tiv land, made the Tiv not to adhere to their culture and practices of marriage. Those who felt that they were free from all forms of traditional marriage desert the traditional rites; infiltrate the culture of preparing for marriage and the taboos guiding marriage practice.

Christianity and western education emphasized less on the old practices of traditional marriage without taking time to study what was obtainable in them. The author in [3.4] explained that as consequences of the changes partly discussed in the foregoing, the traditional practices of marriage rites that were obtainable in pre-colonial Tiv society began to disappear one after the other for good. The Tiv's belief in virginity and sanctity of marriage began to decline. Infidelity and promiscuity were substituted with the teachings about fake love as the basis for marriage. This new understanding and approach to marriage, built on western mentality, greatly influenced the continuity and discontinuity in the practices of Tiv marriage rites. The author in [4] attests to this fact thus:

> …the missionaries who introduced Christian religious education understood Tiv culture of marriage only to an extent; they were not eager to preserve it and therefore, engaged in a systematic exclusion from Tiv land of those elements, which were considered to be a contaminating influence.

Inherent in the above is the fact that with the effects of western education on Tiv world-view, marriage is now given a new understanding. People no longer respect all forms of traditional marriage in Tiv land. The Tiv no longer interpret their marriage life and activities in the light of sanctity and fidelity. More so, the disrespect for virginity and small dowry are being replaced by the belief in Church marriage and quest for money as vital criteria for marriage. In addition, marriage introductions and celebrations are today made through radio and television, and no longer through local means. Furthermore, the impact of western education has also introduced new methods of celebrating marriages to chosen locations. There is also participation of couples in Church marriage rather than traditional marriage rites in Tiv land. These dramatic changes are indicative of the fact that the introduction of western education and Christianity in Tiv land have contributed greatly to erosion of traditional marriage and values in contemporary Tiv society. Thus, the attitudinal orientations of many Tiv people have been grown-off including those that pertain to traditional marriage rites.

II. Conclusion

From our foregone discussion, it is clearly seen that Tiv traditional marriage customs have close links with Jewish Biblical marriage, thought it has been infiltrated due the advent of Christian marriage. The Tiv traditional marriage customs which has similar elements with the Jewish practice such as bride-wealth, exchange of gifts, bride price, exchange of rings, and the like is no longer held in high esteem by many Tiv people. However, the extent to which Tiv traditional marriage is in consonance with Christianity indicates that it can be infused into Christian Kerugma for more meaningful use by Tiv people.

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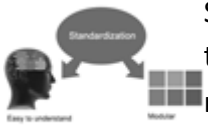


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- Abstract Font size of 9 Bold, "Abstract" word in Italic Bold.
- Main Text: Font size 10 with justified two columns section
- Two Column with Equal Column with of 3.38 and Gaping of .2
- First Character must be three lines Drop capped.
- Paragraph before Spacing of 1 pt and After of 0 pt.
- Line Spacing of 1 pt
- Large Images must be in One Column
- Numbering of First Main Headings (Heading 1) must be in Roman Letters, Capital Letter, and Font Size of 10.
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You can use your own standard format also.
Author Guidelines:

1. General,

2. Ethical Guidelines,

3. Submission of Manuscripts,

4. Manuscript's Category,

5. Structure and Format of Manuscript,

6. After Acceptance.

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(b) A brief Summary, "Abstract" (less than 150 words) containing the major results and conclusions.

(c) Up to ten keywords, that precisely identifies the paper's subject, purpose, and focus.

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- Describe the method entirely
- To be succinct, present methods under headings dedicated to specific dealings or groups of measures
- Simplify - details how procedures were completed not how they were exclusively performed on a particular day.
- If well known procedures were used, account the procedure by name, possibly with reference, and that's all.

Approach:

- It is embarrassed or not possible to use vigorous voice when documenting methods with no using first person, which would focus the reviewer's interest on the researcher rather than the job. As a result when script up the methods most authors use third person passive voice.
- Use standard style in this and in every other part of the paper - avoid familiar lists, and use full sentences.

What to keep away from

- Resources and methods are not a set of information.
- Skip all descriptive information and surroundings - save it for the argument.
- Leave out information that is immaterial to a third party.

Results:

The principle of a results segment is to present and demonstrate your conclusion. Create this part a entirely objective details of the outcome, and save all understanding for the discussion.

The page length of this segment is set by the sum and types of data to be reported. Carry on to be to the point, by means of statistics and tables, if suitable, to present consequences most efficiently.You must obviously differentiate material that would usually be incorporated in a study editorial from any unprocessed data or additional appendix matter that would not be available. In fact, such matter should not be submitted at all except requested by the instructor.



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Content

- Sum up your conclusion in text and demonstrate them, if suitable, with figures and tables.
- In manuscript, explain each of your consequences, point the reader to remarks that are most appropriate.
- Present a background, such as by describing the question that was addressed by creation an exacting study.
- Explain results of control experiments and comprise remarks that are not accessible in a prescribed figure or table, if appropriate.
- Examine your data, then prepare the analyzed (transformed) data in the form of a figure (graph), table, or in manuscript form.

What to stay away from

- Do not discuss or infer your outcome, report surroundings information, or try to explain anything.
- Not at all, take in raw data or intermediate calculations in a research manuscript.
- Do not present the similar data more than once.
- Manuscript should complement any figures or tables, not duplicate the identical information.
- Never confuse figures with tables - there is a difference.

Approach

- As forever, use past tense when you submit to your results, and put the whole thing in a reasonable order.
- Put figures and tables, appropriately numbered, in order at the end of the report
- If you desire, you may place your figures and tables properly within the text of your results part.

Figures and tables

- If you put figures and tables at the end of the details, make certain that they are visibly distinguished from any attach appendix materials, such as raw facts
- Despite of position, each figure must be numbered one after the other and complete with subtitle
- In spite of position, each table must be titled, numbered one after the other and complete with heading
- All figure and table must be adequately complete that it could situate on its own, divide from text

Discussion:

The Discussion is expected the trickiest segment to write and describe. A lot of papers submitted for journal are discarded based on problems with the Discussion. There is no head of state for how long a argument should be. Position your understanding of the outcome visibly to lead the reviewer through your conclusions, and then finish the paper with a summing up of the implication of the study. The purpose here is to offer an understanding of your results and hold up for all of your conclusions, using facts from your research and generally accepted information, if suitable. The implication of result should be visibly described. Infer your data in the conversation in suitable depth. This means that when you clarify an observable fact you must explain mechanisms that may account for the observation. If your results vary from your prospect, make clear why that may have happened. If your results agree, then explain the theory that the proof supported. It is never suitable to just state that the data approved with prospect, and let it drop at that.

- Make a decision if each premise is supported, discarded, or if you cannot make a conclusion with assurance. Do not just dismiss a study or part of a study as "uncertain."
- Research papers are not acknowledged if the work is imperfect. Draw what conclusions you can based upon the results that you have, and take care of the study as a finished work
- You may propose future guidelines, such as how the experiment might be personalized to accomplish a new idea.
- Give details all of your remarks as much as possible, focus on mechanisms.
- Make a decision if the tentative design sufficiently addressed the theory, and whether or not it was correctly restricted.
- Try to present substitute explanations if sensible alternatives be present.
- One research will not counter an overall question, so maintain the large picture in mind, where do you go next? The best studies unlock new avenues of study. What questions remain?
- Recommendations for detailed papers will offer supplementary suggestions.

Approach:

- When you refer to information, differentiate data generated by your own studies from available information
- Submit to work done by specific persons (including you) in past tense.
- Submit to generally acknowledged facts and main beliefs in present tense.

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Methods and Procedures	Clear and to the point with well arranged paragraph, precision and accuracy of facts and figures, well organized subheads	Difficult to comprehend with embarrassed text, too much explanation but completed	Incorrect and unorganized structure with hazy meaning
Result	Well organized, Clear and specific, Correct units with precision, correct data, well structuring of paragraph, no grammar and spelling mistake	Complete and embarrassed text, difficult to comprehend	Irregular format with wrong facts and figures
Discussion	Well organized, meaningful specification, sound conclusion, logical and concise explanation, highly structured paragraph reference cited	Wordy, unclear conclusion, spurious	Conclusion is not cited, unorganized, difficult to comprehend
References	Complete and correct format, well organized	Beside the point, Incomplete	Wrong format and structuring

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