



ISSN: 2709-6300



Journal of Educational Management & Social Sciences

Volume 4, Issue 1

Jan-June, 2023



**ALI INSTITUTE OF RESEARCH &
SKILL DEVELOPMENT (AIRSD)**

Table of Content		
S. No	Titles	Page No
1	Livelihood Profile of Migrated Battery-Operated Rickshaw Pullers in Comilla City: A Case Study	1-15
2	Exploring Bilhana's Contributions to Indian Historiography	16-23
3	Interested Director and Fiduciary Duties: A Never-Ending Mess in English Legal Regime	24-39
4	Socio-Cultural Context of Smoking: A Study on Habit of Smoking among the Intermediate Students of a Village of Rajshahi District	40-49
5	Unpacking Delimitation of Constituencies in Pakistan under Election Laws	50-59

Editorial Board

Patron-in-Chief

Prof. Dr. Muhammad Yousuf Sharjeel

PhD (Psychological Testing & Evaluation)

PhD (Learning Disorder & Dyslexia) in progress

M.Phil, Ed (Gold Medal) (Quality & Performance)

M.Ed (Planning & Management) (Gold Medal) B.

Com, B. Ed (Gold Medal)

Dip. Ed (Measurement & Testing) (Bradford U.K)

C.P.S.E (Language & Learning) (Bradford U.K),

C.O.T.E (Assessment Technology) (Cambridge, U.K) Licensed by

Ministry of Education, U.A.E

Member A.E.R.A, U.S.A & M.S.E.R.A, U.S.A

HEC Research Supervisor

Email: yousufsharjeel@hotmail.com

Editor-in-Chief

Dr. Muhammad Ramzan Sheikh

School of Economics,

Bahauddin Zakariya University Multan, Pakistan

Email: ramzansheikh@bzu.edu.pk

Editor

Dr. Rao Imran Habib

Gillani Law Collgae

Bahauddin Zakariya University Multan

Email: raoimran@bzu.edu.pk

Journal of Educational Management & Social Sciences (JEMSS)

Publisher: Ali Institute of Research and Skill Development (AIRSD)

Office No1, Moiz Clinic Building, Khan Village Road, New Gulgust Multan, Pakistan.

Associate Editors

Dr. Muhammad Atif Nawaz

Department of Economics,

The Islamia University of Bahawalpur - Pakistan

Email: atif.nawaz@iub.edu.pk

Dr. Naureen Akhtar

University Gilani Law College (UGLC)

Bahauddin Zakariya University Multan

Email: naureen.akhtar@bzu.edu.pk

Dr. Sami Ullah

Labor Economics and Human Resources

Shandong University, Weihai - China

Email: sami.khan4050@yahoo.com

Sub Editors

Assist. Prof. Dr. Natasha Kiran

Bahauddin Zakariya University

Multan, Pakistan

Email: natashakiran@bzu.edu.pk

Dr. Muhammad Danyal Khan

University Gilani Law College (UGLC)

Bahauddin Zakariya University, Multan

Email: danyal@bzu.edu.pk

Assistant Editors

Dr. Faisal Munir

Gujrat Institute of Management Science

PMAS Ardi Agriculture University, Gujrat Campus

Journal of Educational Management & Social Sciences (JEMSS)

Publisher: Ali Institute of Research and Skill Development (AIRSD)

Office No1, Moiz Clinic Building, Khan Village Road, New Gulgust Multan, Pakistan.

Email: faisal.munir@glasgow.ac.uk

Dr. Muhammad Usman Riaz

Management Sciences

Harbin University of Science and Technology

Email: musmanriaz@yahoo.com

Managing Editor

Syed Muhammad Faraz Raza

Wuhan University, China

Email: farazraza09@gmail.com

Editorial Officers

Muhammad Taqi

Lecturer Times Institute, Multan

Email: mtaqi113@gmail.com

Mohammad Haseeb

Wuhan University, Wuhan, Hubei Province, P.R. China.

Email: haseeb.ecb@gmail.com

International Advisory Board

Prof. Dr. Mirela Panait

Petroleum and Gas University of Ploiești

Romania

Email: mirela.matei@upg-ploiesti.ro

Assoc Prof. Dr. Du Yana

Business School, Zhengzhou University

Zhengzhou - China

Journal of Educational Management & Social Sciences (JEMSS)

Publisher: Ali Institute of Research and Skill Development (AIRSD)

Office No1, Moiz Clinic Building, Khan Village Road, New Gulgust Multan, Pakistan.

Email: duyana18@zzu.edu.cn

Dr. Muhammad Ibrar

Harbin Institute of Technology

Harbin – China

Email: ibrarshabjani@yahoo.com

Dr. Kishwar Ali

School of Management,

Jiangsu University, Zhenjiang – China

Email: kishwarali@stu.zuel.edu.cn

Dr. Muhammad Nadeem

Nanjing University of Aeronautics and Astronautics

Nanjing – China

Email: nadeemqaisrani@yahoo.com

Prof. Viveka Nand Sharma

Dept. of Hospitality & Hotel Administration

Assam Don Bosco University – India

Email: viveksharmabh@gmail.com

National Advisory Board

Assist. Prof. Dr. Samia Maqbool Niazi

International Islamic University Islamabad

Pakistan

Email: Samia.Maqbool@iiu.edu.pk

Assist. Prof. Dr. Nadia Hanif

UE Business School

University of Education – Pakistan

Email: nadia.hanif@ue.edu.pk

Journal of Educational Management & Social Sciences (JEMSS)

Publisher: Ali Institute of Research and Skill Development (AIRSD)

Office No1, Moiz Clinic Building, Khan Village Road, New Gulgust Multan, Pakistan.

Assist. Prof. Dr. Mudrasa Sabreen

Faculty of Shariah and Law

International Islamic University, Islamabad

Email: mdsabreen@yahoo.com

Assist. Prof. Dr. Shakil Akhtar

Department of Political Science

The Islamia University of Bahawalpur

Email: shakil.akhtar@iub.edu.pk

Assist. Prof. Dr. Aneeqa Afaq

University of Kotli

Azad Kashmir – Pakistan

Email: aneeqa_001@yahoo.com

Dr. Ali Junaid Khan

The Islamia University of Bahawalpur

Pakistan

Email: Junaidkhan@yahoo.com



Livelihood Profile of Migrated Battery-Operated Rickshaw Pullers in Comilla City: A Case Study

Dr. Md. Ruhul Amin¹ & Most. Samima Sarmin²

¹ Associate Professor, Department of Public Administration, Comilla University. Cumilla-350

² Upazila Social Services Officer, Cumilla Sadar South Upazila, Cumilla

ARTICLE INFO	ABSTRACT
<p>Article History:</p> <p>Received: January 1, 2023</p> <p>Revised: January 20, 2023</p> <p>Accepted: February 5, 2023</p> <p>Available Online: March 10, 2023</p> <p>Keywords:</p> <p>Rickshaw, Battery, Migration, Society, Employment, Cumilla.</p>	<p><i>Battery operated Rickshaws are the most popular and commonly used kind of transportation in Bangladesh. A battery-operated rickshaw is a common mode of transportation for short distances in the country, providing a source of income for rural immigrants. They contribute 30% of transportation value-added, according to government estimates. Policymakers and researchers have mostly ignored rickshaws. The majority of rickshaw pullers were migrating, illiterate, and destitute rural people who slept in slums without basic amenities. The majority of rickshaw pullers were migrating, illiterate, and poor rural people who lived in inadequate housing without civil amenities. This study describes the overall experience of passengers and drivers with battery-operated rickshaws that promote last-mile connection. Data gathered through in-depth interviews with 120 rickshaw pullers in Cumilla City shows the user experiences of e-rickshaw, as well as the benefits, drawbacks, and effectiveness of rickshaw on the streets. According to the findings of the study, battery-operated rickshaws have the potential to continue operating as a viable last mile connectivity option in the urban transportation industry.</i></p>



© 2023 The Authors, Published by AIRSD. This is an Open Access Article under the Creative Common Attribution Non-Commercial 4.0

Corresponding Author's Email: rubelcou@gmail.com

INTRODUCTION

Bangladesh's scenery has traditionally included motor operated rickshaws with bright decorations. These dedicated and eco-conscious rickshaw drivers are equally adept at negotiating congested city streets as well as winding country roads (Ali, 2013). However, because they barely make it out of poverty themselves, their passengers don't even notice them. With 86% of the total population living in rural areas, our nation may be described as having a predominantly rural population. Nearly 81 percent of the world's population is extremely reliant on agricultural pursuits at the turn of the 21st century. People in rural areas sometimes have very meager and

precarious means of support for themselves. The standard of living of the population and the agricultural operations carried out inside the country have not been improving as rapidly as was anticipated (Hossain et al., 2018). In addition to this, other metropolitan centers in various sections of the country are now undergoing development. However, only around 14 percent of the population resides in these metropolitan regions. In compared to rural regions, metropolitan areas have significantly more development, as well as access to a greater variety of services and opportunities for physical activity. Career options and access to vocational schools are greater in metropolitan areas (Islam et al., 2019). This means that people in urban areas have better access to employment opportunities and a higher standard of life. Bangladesh has made great progress in a number of economic sectors since the turn of the past century. Despite this, the benefit did not percolate down to the lowest echelons. Despite periodic attempts to improve the economic status of the poor and those working in the unorganized sector, these groups continue to face unfavorable conditions (Karim & Salam, 2019). The lives of the world's poorest people continue to worsen, and this is particularly true in the rural regions that are home to more than 70% of the population. Unemployment, lack of education, poor living conditions, and unfair treatment in the distribution of wealth are all pervasive problems. Many individuals from less populous places migrate to larger cities in quest of better employment and living conditions. However, these rural immigrants, particularly those who had been displaced by natural catastrophes (flood, drought) or for socio-religious reasons, lacked the resources, education, and industrial skills necessary to get employment in the official sector or related industries (Kurosaki, 2007). The rickshaw industry is appealing because it provides a stable income and easy access to work. As a result of the ever-increasing population and the expansion of the urban population, rickshaw pulling has become a common source of income and employment among the rural immigrants in the urban masses. Historically, rickshaw pullers have concentrated in urban slums and ghettos (Begum & Sen, 2005). The cycle rickshaw is a common form of local transportation in the form of a three-wheeled, miniature vehicle. Travelers in the main cities of South Asia and Southeast Asia, notably in Bangladesh, typically use them to go about for shorter distances at prearranged prices. Pulling rickshaws is an important source of income and employment for those who are less fortunate (Kumar et al., 2016). Because it is the most cost-effective method of travel for traveling shorter distances, it is becoming increasingly popular in metropolitan areas. Even though pulling a rickshaw is a sign of poverty, it really offers a source of income and a way of life for the bulk of the socio-economically backward individuals who depend, in part or entirely, on this vocation.

Objective of the Study

The research was carried out in Cumilla City with the following goals in mind, taking into account the relevance of rickshaw pulling in the socio-economic lives of people at the grass roots level.

- To investigate the backgrounds of the persons who pulled rickshaws, including their educational backgrounds and past jobs.
- To investigate the educational levels, main habits, living situations, and availability of basic utilities and services among those who pull rickshaws for living in Comilla City.
- In order to draw an attention to the issues that are associated with the rickshaw pullers of Cumilla City and their socio-economic position.

METHODOLOGY OF THE STUDY

The lock industry, pharmaceuticals, edible oil facilities, dairy farms, and slaughterhouses are just some of the small and light businesses that call Comilla City home. Also, hundreds of prosperous individuals call this city home thanks to its many prestigious educational institutions, including a prestigious university (Comilla University) and colleges as well as at least 200 schools (Agarwala & Gogoi, 2019). However, there is still a deficiency in the city's public transit infrastructure. Therefore, rickshaws are constantly in great demand due to the strong need for short-distance transportation. Due to a dearth of secondary sources detailing the economic status of rickshaw drivers, this research relies on primary sources.

In order to accomplish the goals of a study, researchers use a certain set of techniques known as a "research methodology" (M. Aminuzzaman Saluddin, 1998). Incorporating both qualitative and quantitative methods, this research focused on corporate governance.

- a. Research Design:** The quantitative research used to regulate and qualify the rapport among the dependent and independent variables. Different statistical tools were used to express the relationship between variables. (Kumar Ranjit, 2011).
- b. Selection of the Study Area:** Three different areas of Cumilla city were selected purposively for conducting this study. Number of rickshaw pullers and their socio-economic status are given important emphasis to select the study area.
- c. Data collection Methods:** To draw some conclusions from the findings, the collected data must be quantitatively analyzed. To achieve the study's objectives, a combination of qualitative and quantitative approaches was used. The following methods used in this study:
 - ❖ **Content Analysis:** Content analysis entails gathering information from all important documents, books, journals, articles, online articles and research works. It has both quantitative and qualitative capabilities. Content analysis can also provide historical and cultural insights over time.
 - ❖ **Interview:** A face-to-face interviews will be conducted. According to the researcher, face-to-face interviews with semi-structured oral interviews are appropriate for gathering information from them.
 - ❖ **Survey method:** In this study, a semi-structured questionnaire survey will be used to collect primary data. It's one of the most efficient ways to gather primary data.

Sources of Data and Sampling procedure

Primary and secondary sources were used to gather information. Secondary data were gathered from various sources, such as educational statistics, books, seminar papers, newspaper reports, previous research works, and reports. Interviews and questionnaire surveys was used to collect primary data (M. Aminuzzaman Saluddin, 1998). Purposive sampling was used on the entire sample to conduct a semi-structured questionnaire survey. The study area was selected on the basis of purposive sampling. From this city, I was purposively select 120 respondents as per their availability to collect the data. The following is the breakdown of the respondents:

Table-01: Composition of Respondents.

Sl	Name of City	Number of Ward	Category of respondent	Total Respondents
01.	Cumilla	1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21 and 23 no wards	Rickshaw puller	120
Total (One Hundred and Twenty)=				120

- d. Data Processing:** According to the research objectives, the data was coded, calculated, analyzed, sorted, summarized, classified, formatted, and tabulated. The data was also methodically processed using different research approaches based on predetermined variables.
- e. Data Analysis:** Information was gathered from both the primary as well as the secondary sources. The information was analyzed and interpreted using statistical tools and techniques after processing. In addition, using the SPSS method, the data was classified, tabulated, and analyzed (Statistical Packages for the Social Sciences). Data was analyzed using Microsoft Word and Excel.

Situation Analysis: Bangladesh perspective

In Bangladesh, two million people are employed as rickshaw pullers. One of the most recognizable symbols of the nation is the rickshaw, which may carry everything from humans to plastic flowers to equipment. In the largest cities of Bangladesh, rickshaws account for 50 percent of all traffic and transport more people per vehicle than automobiles do (Sadekin et al., 2014). For other people, it's their only option for getting anywhere except walking. Both economically and culturally, the country relies heavily on rickshaws. Rickshaw pulling is credited with 6% of Bangladesh's GDP, however Gallagher (1992) shows that it really contributes more to the country's economy than Bangladesh Biman Airlines and Bangladesh Railways put together (Kumar et al., 2016). It is estimated that in Dhaka alone, rickshaw drivers and riders exchange \$300,000 everyday. A huge number of individuals will benefit from this deal. It is believed that 14% of the Bangladeshi population (rickshaw drivers, their families, manufacturers, garage owners, painters, and repairmen) depends on the rickshaw industry for their livelihood. Roughly 10.4 million people depend entirely on the rickshaw industry for support. As there are over two million rickshaw pullers, and the typical household has 5.2 people, this is the case. The majority of discouraged people want for a secure employment (Tamanna, 2012). A fixed weekly payment, with the possibility of a bonus income for great labor, would allow the rickshaw puller to provide for their family's basic necessities. This plan would be a major step toward alleviating poverty for future generations. People sometimes choose jobs as rickshaw pullers because they feel they have no other options and are not proud of their profession (Kumar et al., 2018). A full exodus of Bangladesh's rickshaw pullers would be damaging to the economy, but they do meet a substantial market demand.

The municipal government of Comilla, where the majority of rickshaws are located, has been attempting to register rickshaw pullers and provide licenses for rickshaws since 2011. This ambitious endeavor, but without a development goal, indicates a determination to interact with the rickshaw sector and intervene more effectively. City corporations should be able to oversee the rickshaw business (Islam, 2016). There are many non-governmental organizations (NGOs) in Bangladesh because of the high need for social services there, but none of them are dedicated to helping the rickshaw drivers and their families. Efforts to improve the lives of rickshaw drivers aren't always successful since, for example, HIV/AIDS signs posted at rickshaw garages are written in English and most drivers only know Bengali (Naimul & Tehsum, 2018). Roughly ten thousand individuals have to rely on the rickshaw business alone. Further, our plan would work to break down prejudice against Bangladesh's rickshaw drivers so that they may better serve their communities.

RESULT ANALYSIS

Rickshaw pullers from birth place

The people who make their living pulling rickshaws are among the most marginalized in the world. A majority of rickshaw drivers in Comilla moved here from elsewhere in the country in search of work; the data below reveals that just 22% of drivers were born and raised in the city. Seventy-four percent were from other Comilla districts, while another 42 percent were from adjacent districts. Researchers found that most migrants were rural marginal farmers or agricultural laborers from neighboring areas where job prospects were lower than in Comilla.

Table 01: Rickshaw pullers from birth place

Place of Birth	%
Local	20
Migrated	80
a. Within district	20
b. Neighboring district	40
c. Distant district	20

Rickshaw pullers by previous occupation

Figure 02 demonstrates that 25% of rickshaw pullers were engaged in agricultural labor. This was followed by non-workers at a rate of 20%, farmers at a rate of 18%, construction laborers at a rate of 11%, workers in the lock industry at a rate of 10%, hawkers at a rate of 7%, workers in hotels and restaurants at a rate of 4%, sweepers at a rate of 3%, and other workers at a rate of 2%. The fact that there is not consistent employment throughout the year in agriculture explains why the proportion of people working in agriculture is so high. However, among the people who pull rickshaws, 18% had been involved in agriculture as farmers in the past. However, lower

incomes, overpopulation, higher input costs, and lower productivity pushed them to seek alternative means of earning a living. Rickshaw pulling is one of such alternative means.

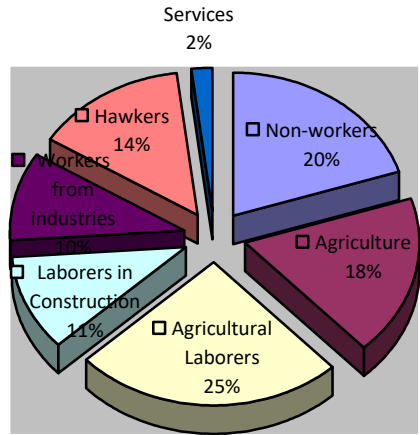


Figure 01: Rickshaw pullers by previous occupation

The other reasons were, firstly, that people are drawn to this difficult job by the promise of quick cash, and secondly, that pulling a rickshaw requires no special skills, whereas the high mechanization even in cottage and small-scale industries has left very little room for workers with no training or experience. A sizeable percentage of rickshaw pullers were found to have been vegetable or fruit hawkers in their past lives. However, as a consequence of engaging in risky behaviors such as gambling, abusing drugs or alcohol, or even suffering the effects of illness in their own families, these individuals experienced a loss of capital and were forced to seek employment elsewhere. As a result, they became rickshaw pullers.

Religion status of rickshaw pullers

All person's decisions are heavily influenced by their religious beliefs, making religion a crucial component in the community's socioeconomic status. The following pie chart illustrates that roughly 40% of rickshaw drivers were Christians, 20% were Hindus, and 10% were Buddhists. Also, just 2% of the population is involved in the rickshaw pulling service, and that number includes Christians and members of other communities.

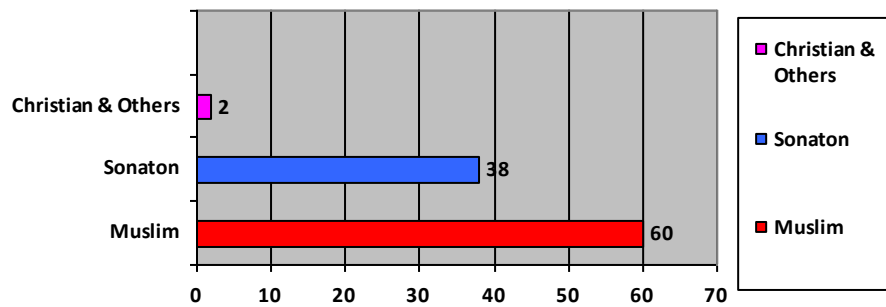


Figure 02: Religion scenario of Rickshaw pullers

Caste Scenario of Rickshaw pullers

The class system's continued influence on Bangladesh's social structure, with its accompanying stratification and constraints, is substantial. The belief system, usually associated with Muslims, is really widely held by Sonaton, Christians, and others. There is no escaping the fact that caste is a reliable surrogate for economic standing. The following pie-chart shows that general caste people make up 78% of rickshaw drivers, followed by those from the schedule caste group at 2%. The majority of rickshaw drivers were of the Sonaton ethnicity, which is a socially and economically disadvantaged group. Worse than the schedule caste people, their living circumstances were deplorable.

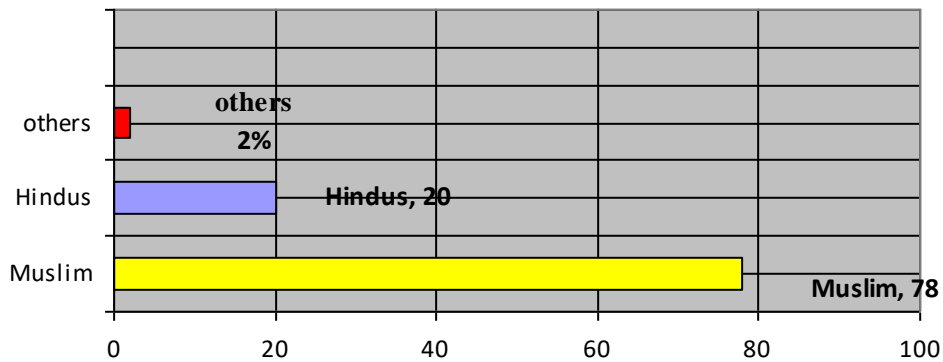


Figure 03: Rickshaw pullers by Caste

Status of Age

The graphic demonstrates that 69% of rickshaw pullers were under the age of 45 years old. This is likely due to the fact that this career requires a greater amount of physical effort and is less secure for those who are older. As a result, a significant number of young individuals who had moved but had no jobs entered the profession in order to support themselves. Those pullers, on the other hand, are older than the 55 years they were in the past.

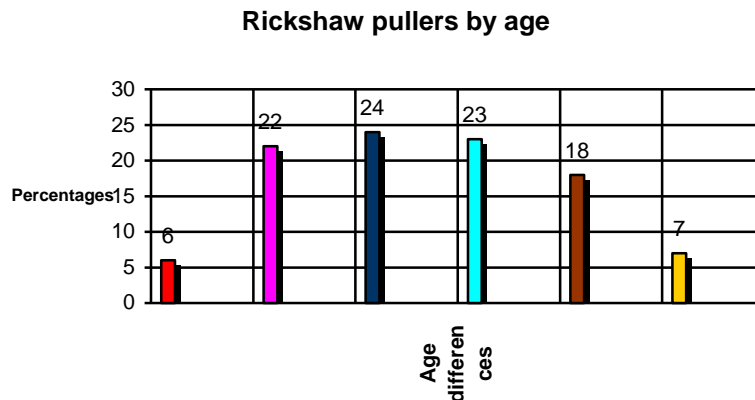


Figure 04: Rickshaw pullers by age

Marital Status of Rickshaw pullers

Marriage is the single most important component in establishing a reliable and stable social life. The following pie chart shows that 70% of rickshaw drivers were in committed relationships, 28% were single, and 2% were widowed or divorced. Marriage is one of the pull factors that compels unskilled employees to pull rickshaws to support their families. This is because pulling rickshaws gives more conveniently accessible income. On the other hand, a portion of them were obliged to live the life of a bachelor since they had to leave their wives and children behind in the regions from where they came in order to find work. In a similar vein, a significant portion of the population was single as a result of low socio-economic conditions and the need to earn a living; in addition, they left the nation (their native areas) to find work.

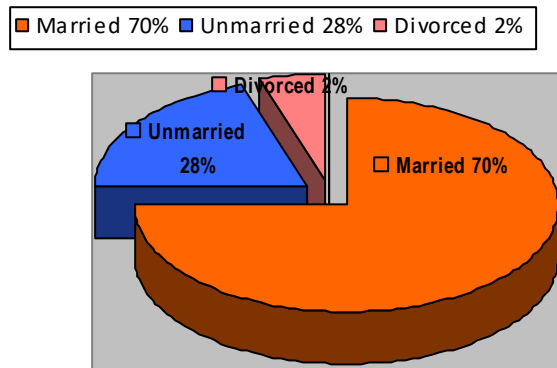


Figure 05: Rickshaw pullers by marital status

Educational level of Rickshaw pullers

The degree of social development is proportional to the amount of education. According to this data, 74% of rickshaw drivers did not have a high school diploma or equivalent. They have a literacy rate of roughly 26%, with the vast majority having finished at least some kind of basic school education. It was found that rickshaw pullers had a very low level of schooling. It was due to low family income, financial hardship, and a lack of convenient transportation to schools, as well as the pervasive mentality that schools were a waste of money.

Table 02: Rickshaw pullers by level of education

Educational Level	%
Illiterate	74
Primary	14
Middle	11
High school	01
Total=	100%

Income Status of Rickshaw pullers

The majority of rickshaw drivers (67%) had monthly incomes of less than taka 2,500, while 20% had monthly incomes between taka 2,500 and 3,000, and 13% had monthly incomes of 3,000 or more. A subset of rickshaw drivers had greater wages since they were part of a more permanent or steady source of income, thanks to contracts they had secured with schools or parents of kids at such institutions. They utilize a hired rickshaw on a month-to-month basis, in contrast to the other fixed sources, which were daily office employees, in particular females.

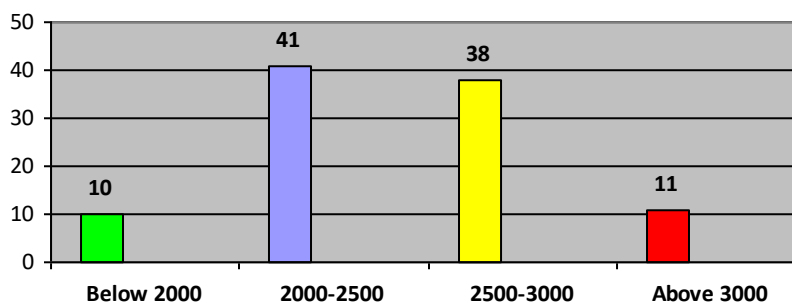


Figure 06: Rickshaw pullers by income

Residence facilities of Rickshaw pullers

It was said before that the majority of people who pulled rickshaws were immigrants from rural areas and homeless; nonetheless, there were many other ways that these people spent their nights. The percentage of people working as rickshaw pullers increased by 30% in lower class leased dwellings, followed by the percentage of people living in garages (27%), their own houses (22%), slums (12%), and other houses (10%) accordingly. Slums, garages, and other types of homes all lacked basic amenities like toilets and sanitary facilities, and there was no provision for water. These rickshaw pullers were either renting houses or living in homes that they owned that were in a deplorable state in terms of cleanliness and did not have an adequate supply of water.

Table 03: Rickshaw pullers by dwellings

Nature of Dwellings	%
Rented	30
Slum	11
Garage	27
Other's houses	10
Own houses	22
Total=	100

Health care facilities of Rickshaw pullers

During the field study, it was discovered that despite the strenuous physical labor required for pulling the rickshaw, practically the whole community of rickshaw pullers spent their lives without eating properly in residences that lacked adequate amenities and services. This was documented. They were suffering from a variety of health issues, including coughing, physical ache, fever, and a number of various persistent diseases. They bought medications from medical shops (50%) without first contacting a doctor or medical professional. Due to the fact that they had a low income and the fact that the consulting time and the hours that they worked to earn money were almost identical, it was more convenient for them to seek medical care in the evenings or during their free time in order to purchase cheaper medicines from medical stores or subpar, low-quality private clinics.

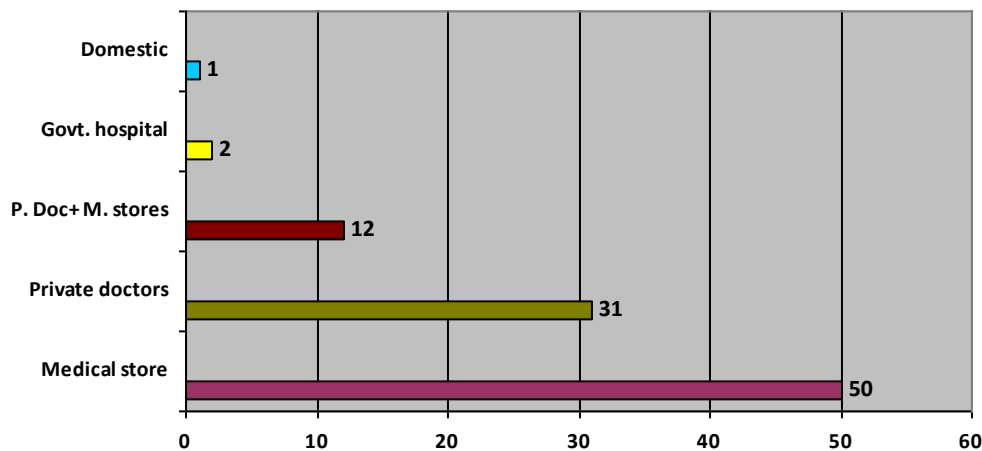


Figure 07: Rickshaw pullers by health care facilities

Reasons for Migration

The survey found that most rickshaw pullers (92%) are from the northern part of Bangladesh and the rest (8%) are from other parts of Bangladesh. Why do so many people leave the northern part of the country? People leave this area because it has a lot of natural disasters and economic problems. The survey shows that most rickshaw pullers (90%) say that natural factors (floods and river bank erosion) and economic factors (poverty and unemployment) are what cause them to move. The graph shows how the rickshaw pullers who left their jobs are split up by the reason they left. They say that the northern part of Bangladesh is affected by monsoon, floods, river erosion, drought, and cold waves. All of these things happen more often and hurt a lot of people who work in agriculture. Because of these natural factors, there aren't many job opportunities in this area.

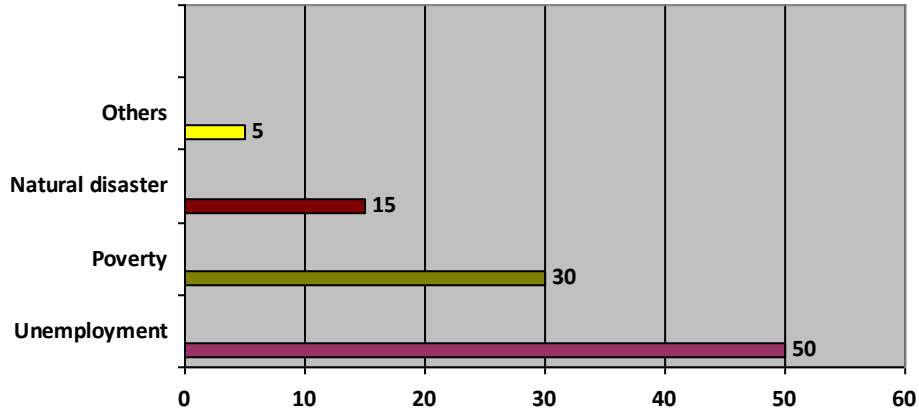


Figure 08: Causes of Migration

About half of the rickshaw pullers say they came to Cumilla because they were out of work. Since they don't have jobs, they have no way to make money to pay for food and shelter, so they are often poor. So, in order to get rid of the poverty curse, a lot of people from the northern region agreed to move to where there are jobs.

Amount of Saving

It can be observed from the chart above that out of the total of 120 respondents, there are 65 respondents that save between 201 and 400 taka per day. This represents 56% of the total respondents. Three-fifths of those polled put away more than four hundred taka per day in savings. The remaining nine percent, meanwhile, have the opportunity to save up to taka 200.

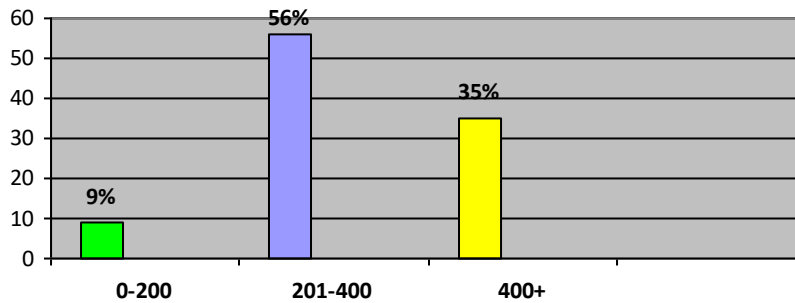


Figure 09: Amount of Saving

Change in Social Status

From the diagram below, you can see how the social status of rickshaw drivers has changed over time. Eighty percent of the 120 people who answered say that their social status has gone up since they started driving a rickshaw. 15% of them say that their social status has gone down, and 5% say that it has stayed the same.

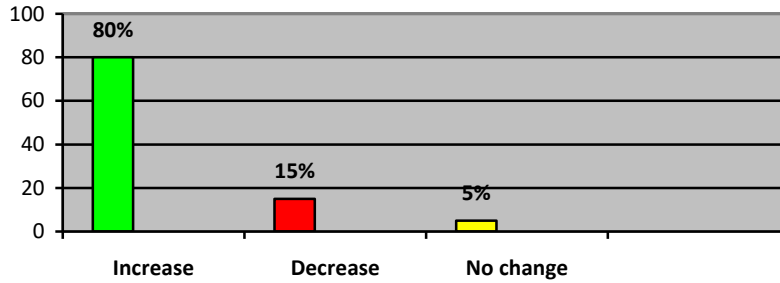


Figure 10: Scenario of Social Status

Level of Satisfaction from the occupation

From the diagram below, we can see that out of 120 respondents, 62% are happy with their rickshaw job, 27% are very happy with their rickshaw job, 11% are averagely happy with their rickshaw job, and none of them are unhappy with their rickshaw job.

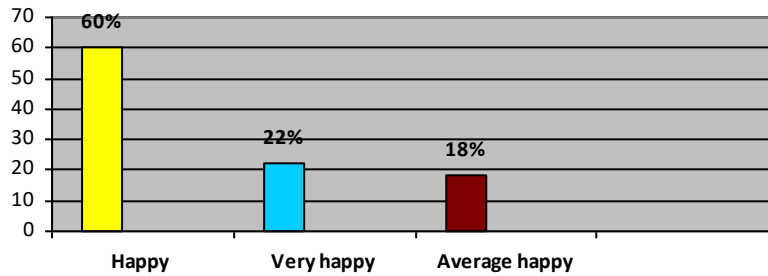


Figure 10: Level of Satisfaction

CONCLUSION & RECOMMENDATIONS

A variety of people are drawn to this line of employment because it offers both monetary compensation and rapid entry into the workforce. The vast majority of people who pulled rickshaws were rural immigrants who had moved into the area from the neighboring districts after abandoning their former jobs. There was a significant number of Muslims working as rickshaw pullers, accounting for sixty percent of the workforce. Because pulling a rickshaw requires a high level of physical effort, 69% of rickshaw pullers were between the ages of 15 and 45. As a result of poor income, poverty, and a general lack of awareness, the majority of them were illiterate (74 percent), which contributed to their wasteful views about spending time and money. Those rickshaw pullers who had a source of stable income (25%) as a contract for carrying school students were in better shape than the other pullers who did not have this (75%). The majority of them resided in slums, impoverished homes, or garages, all of which lacked basic civic amenities and facilities or provided substandard versions of such amenities. Coughing, bodily soreness, fever, and a variety of persistent diseases were the most common health issues experienced by those who pulled rickshaws. In order to obtain more affordable drugs for diagnosis, they went to medical shops or private clinics that were below average in quality when they needed medical treatment during free hours (Nandhi, 2011). The lack of commitment from the government to this community was also a factor in why things were so

bad. Active unions and organizations could have helped improve their social and economic situation (Kumar et al., 2016). A few suggestions are included as ways to help them get better.

- ❖ The rickshaw community, much like any other backward population, has to be acknowledged as such and given the appropriate level of consideration.
- ❖ It is necessary to take a unique strategy to their uplift in the same way that it is taken with other targeted groups for the socioeconomic development of their local area.
- ❖ The rural population of Bangladesh is economically stagnant, thus initiatives to create new jobs in the countryside need to reach out to them in a genuine way.
- ❖ It is believed that pulling rickshaws can be a means of escaping poverty; however, education and health care must be prioritized if the lives of rickshaw-pullers are to be improved with the help of the government and non-governmental organizations (NGOs).
- ❖ Policy interventions should encourage early disengagement from rickshaw pulling through credit, training, education, and other initiatives.

REFERENCES:

- Agarwala, M., & Gogoi, B. (2019). A Study on the Socio Economic Condition of E-Rickshaw Pullers in Guwahati City, Assam, India. *International Journal of Economics and Management Studies*, 6(5), 69–85. <https://doi.org/10.14445/23939125/ijems-v6i5p112>
- Ali, M. (2013). Socio-Economic Analysis of Rickshaw Pullers in Urban Centres : A Case Study of Uttar Pradesh , India ISSN : 2278-6236 SOCIO-ECONOMIC ANALYSIS OF RICKSHAW PULLERS IN URBAN CENTRES : A CASE STUDY OF UTTAR PRADESH , INDIA. *Ijarmss*, Vol.2(January), No.1.
- Begum, S., & Sen, B. (2005). Pulling rickshaws in the city of Dhaka: A way out of poverty? *Environment and Urbanization*, 17(2), 11–25. <https://doi.org/10.1177/095624780501700202>
- Hossain, M. S., Hossain, M., Hossain, S., & Rony, J. I. (2018). Analysis of Socio-Economic Conditions of Rickshaw Pullers in the Capital City of Bangladesh. *European Journal of Business and Management*, 10(23), 9. www.iiste.org
- Islam, M. S. (2016). Socio Economic Profile of Selected Rickshaw Puller at Hugra Union in Tangail District, Bangladesh. *MOJ Public Health*, 4(5), 161–167. <https://doi.org/10.15406/mojph.2016.04.00096>
- Islam, M. S., Hossain, M. A., & Lina, R. I. (2019). Forced Migration as a Livelihood Adaptation in Response to Climate Change: An Empirical Study on Central South Exposed Coast of Bangladesh. *Society & Change*, XIII(3), 7–24. <https://societyandchange.com/uploads/1569837147.pdf>
- Karim, P. M. R., & Salam, K. A. (2019). Organising the Informal Economy Workers: A Study of Rickshaw Pullers in Dhaka City. *Bangladesh Institute of Labour Studies*, 12. <http://bilsbd.org/wp-content/uploads/2019/06/A-Study-of-Rickshaw-Pullers-in-Dhaka-City.pdf>
- Kumar, A., Thomas, J., Wadhwa, S., Mishra, A., & Dasgupta, S. (2018). Income and Saving

- Habits Among Rickshaw Pullers in Ranchi. *SSRN Electronic Journal*, June. <https://doi.org/10.2139/ssrn.3113063>
- Kumar, A., Thomas, J., Wadhwa, S. S., Mishra, A., & Dasgupta, S. (2016). Health and Social Security Needs of Rickshaw Pullers in Ranchi. *Social Work in Public Health*, 31(4), 246–254. <https://doi.org/10.1080/19371918.2015.1125323>
- Kumar Ranjit. (2011). *Research Methodology- a step-by-step guide for beginners* (third edit). SAGE Publications India Pvt Ltd. http://www.sociology.kpi.ua/wp-content/uploads/2014/06/Ranjit_Kumar-Research_Methodology_A_Step-by-Step_G.pdf
- Kurosaki, T. (2007). *Rural-Urban Migration and Urban Poverty: Socio-Economic Profiles of Rickshaw Pullers and Owner-Contractors in North-East Delhi Abstract In December 2005 and January 2006*, we conducted a pilot survey to collect detailed information on eighty rickshaw pul.
- M. Aminuzzaman Saluddin. (1998). *Introduction to Social Research*.
- Naimul, S., & Tehsum, M. (2018). Munich Personal RePEc Archive Examining Vulnerabilities:the Cycle Rickshaw Pullers of Dhaka City. *International Journal of Development Research*, 8(83995), 1. https://mpra.ub.uni-muenchen.de/83995/1/MPRA_paper_83959.pdf
- Nandhi, M. (2011). The Urban Poor and Their Money: A Study of Cycle Rickshaw Pullers in Delhi. *Institute for Financial Management and Research, Centre for Microfinance*, June. <http://www.centre-for-microfinance.org/wp-content/uploads/attachments/csy/2257/Rickshaw Pullers Study.pdf>
- Sadekin, M. N., Asikha Aktar, M., & Pulok, M. H. (2014). Socioeconomic Analysis of the Migrated Rickshaw Pullers in Comilla City of Bangladesh. *International Journal of Innovation and Applied Studies*, 8(3), 2028–9324.
- Saliu, F., & Taqi, M. (2022). Exports and Economic Growth. A case study of US.
- Taqi, M., Shah, S. Z. A. (2021). An Empirical analysis of the Influencing Factors of Foreign Trade in Pakistan: Based on the Gravity Model. *Indian Journal of Economics and Business*, 20(1).
- Taqi, M., Mohsin, I., & Khan, I. H. (2022). A Study into Sustainable Ethical Business Practices of CPG (Consumer Packaged Goods) Companies. *INTERNATIONAL JOURNAL OF SPECIAL EDUCATION*, 37(3).
- Faridi, M. Z., Mehmood, K. A., Azam, A., & Taqi, M. (2019). Fiscal decentralization and economic growth in South Asian countries. *Pakistan Journal of Commerce and Social Sciences (PJCSS)*, 13(2), 529-546.
- Taqi, M., Abbas, M., e Ali, M. S., & Ashraf, M. R. (2021). Foreign direct investment, trade performance, and sustainable development goals: An analysis of BRI selected countries. *International Research Journal of Management and Social*, 2, 67–79.
- Taqi, M., Rizwan, M., Ahmad, W., & Umair, M. (2021). Effect of the Tax Rate on Economic Growth: A Panel Analysis. *International Research Journal of Management and Social Sciences*, 2(2), 12-26. [https://doi.org/10.53575/irjmss.v2.2\(21\)2.12-26](https://doi.org/10.53575/irjmss.v2.2(21)2.12-26)
- Rehman, S. U., Taqi, M., ur Rahman, S., & Ahmad, W. (2021). Impact of Trade Deficit on Economic Growth: A Case of some selected Countries. *International Research Journal of Management and Social Sciences*, 2(2), 27-39. [https://doi.org/10.53575/irjmss.v2.2\(21\)3.27-39](https://doi.org/10.53575/irjmss.v2.2(21)3.27-39)
- Taqi, M., e Ali, M. S., Parveen, S., Babar, M., & Khan, I. M. (2021). An analysis of Human Development Index and Economic Growth. A Case Study of Pakistan. *iRASD Journal of*

- Economics, 3(3), 261-271. <https://doi.org/10.52131/joe.2021.0303.0042>
- Taqi, Muhammad and Ali Shah, Salyha Zulfiqar and Sibte Ali, Muhammad and Ali, Muhammad and Yousuf, Muhammad, Access to Finance for African SMEs: Do Women Entrepreneurs Face Discrimination (2021). *Journal of Contemporary Issues in Business and Government* Vol. 27, No. 06, 2021, Available at SSRN: <https://ssrn.com/abstract=4270966>
- Naveed, T. A., Sarwar, K., e Ali, M. S., Irshad, M. S., & Taqi, M. (2022). Globalization and Gender Disparities: A Social, Economic and Political Perspective for South Asian Countries. *Journal of Contemporary Issues in Business and Government*, 28(3), 160-185.
- e Ali, M. S., Taqi, M., & Parveen, S. (2021). Role of Political Instability in Attracting FDI Inflow to Pakistan. *Review of Politics and Public Policy in Emerging Economies*, 3(1), 41-49. <https://doi.org/10.26710/rope.v3i1.1739>
- e Ali, M. S., Khan, M. I., Taqi, M., & Khan, F. (2021). Determinants of Foreign Direct Investment in Pakistan. *Meritorious Journal of Social Sciences and Management (E-ISSN# 2788-4589| P-ISSN# 2788-4570)*, 4(1), 38-47.
- Taqi, M., Zainab, F., Anwar, S., & Zia, A. (2022). Nexus between Carbon emission per capita and Urbanization. *Journal of Economics, Management & Business Administration*, 1(2), 15-26. <https://doi.org/10.59075/jemba.v1i2.116>
- Tamanna, M. (2012). *Rickshaw Cycle Drivers in Dhaka: Assessing Working Conditions and Livelihoods Specialization: Governance and Democracy (G and D) MEMBERS OF THE EXAMINING COMMITTEE. November.*
- Yuan, M., Hu, H., Alharthi, M., Ahmad, I., Abbas, Q., & Taqi, M. (2022). Nexus between energy pricing and carbon emission. A policy mix response of developing economies. *Economic Research-Ekonomska Istraživanja*, 35(1), 6541-6557. <https://doi.org/10.1080/1331677X.2022.2050932>



Exploring Bilhana's Contributions to Indian Historiography

Rashid Manzoor Bhat¹, Dr. Sillalee A/L S. Kandasamy², Dr. Lakmini Gamage³ & Dr. P. Rajan⁴

¹ Ph.D Research Scholar, Department of History, Annamalai University, Annamalai Nagar, Tamil Nadu, India

Email: rsdbhat@gmail.com

² Senior Lecturer, Department of Indian Studies, Universiti Malaya, Kuala Lumpur, Malaysia

³ Senior Lecturer, Department of History and Archaeology, University of Ruhuna, Matara, Sri Lanka

⁴ Professor of History, Department of History, Annamalai University, Annamalai Nagar, Tamil Nadu, India

ARTICLE INFO

ABSTRACT

Article History:

Received:	January	15, 2023
Revised:	February	10, 2023
Accepted:	February	28, 2023
Available Online:	March	13, 2023

Keywords:

Indian historiography, Sanskrit literature, historical narratives, literary style, cultural context, rhetorical talent.

This study explores the contributions of Bilhana, a medieval Indian writer, to the tradition of historical writing in India. Bilhana was a poet and historian who lived in the 11th century and is known for his works in Sanskrit literature. The study aims to evaluate Bilhana's historical narratives, examine his sources and methods, and analyze his impact on the development of Indian historiography. The research methodology is primarily historical and analytical, with a descriptive approach, involving an in-depth examination of Bilhana's works and the historical context in which they were written. The objectives of the study are to analyze Bilhana's literary style and historical context, evaluate his contributions to Indian historiography, and assess the accuracy and reliability of his historical accounts. The study also aims to explore the themes and motifs in his historical narratives, identify his audience and intended purpose, and highlight the literary and rhetorical devices employed in his works. The findings of the study indicate that Bilhana's historical narratives are significant contributions to the development of Indian historiography, both in terms of content and literary style. His works provide valuable insights into the political, cultural, and social context of medieval India, and demonstrate a sophisticated understanding of historical events and their interpretation. Bilhana's works also showcase his literary skill and rhetorical talent, making them important contributions to the broader literary tradition of Sanskrit literature.



© 2023 The Authors, Published by AIRSD. This is an Open Access Article under the Creative Common Attribution Non-Commercial 4.0

Corresponding Author's Email: rsdbhat@gmail.com

INTRODUCTION

Bilhana, a notable 11th-century Kashmiri poet and historian, made significant contributions to Indian historiography through his poetic works. His writings not only showcase his literary prowess but also provide valuable insights into the socio-political and cultural milieu of his time. One of Bilhana's most significant works is Vikramankadeva Charita, an epic poem that

recounts the life and reign of the Chalukya king Vikramaditya VI (r. 1076-1126). Written in Sanskrit, this historical narrative is composed of 18 cantos and over 1,700 verses. It provides a detailed account of the king's life, including his military campaigns, administrative policies, religious patronage, and personal character. By documenting the achievements of Vikramaditya VI, Bilhana's work serves as an important source of information on the Western Chalukya dynasty and its socio-political context. Bilhana's poetic genius is evident in his romantic lyric poetry. His collection of love poems, known as Chaurapanchasika (The Secret Fifty Verses), is regarded as a masterpiece of Indian lyric poetry. The poems describe the passionate love between a young Brahmin and a beautiful woman, showcasing Bilhana's mastery of poetic expression, metaphors, and similes. While the Chaurapanchasika does not contribute directly to historiography, it offers a glimpse into the aesthetic values and emotional experiences of the period. Bilhana's contributions to Indian historiography are significant for several reasons. First, his works serve as a valuable source of information on the Western Chalukya dynasty, which played a critical role in shaping the history of the Deccan region. Second, his writings provide insights into the cultural, social, and political context of 11th-century India, thereby enriching our understanding of the period. Lastly, Bilhana's poetic talent has left a lasting impact on Indian literature, with his works continuing to inspire and influence generations of poets and scholars.

The study provides a deeper understanding of the development of historical writing in India and the literary and cultural context of the period. The study also highlights the impact of Bilhana's works on later historians and historical narratives, contributing to a better understanding of the evolution of historical thought in India.

OBJECTIVES

The study aims to analyse the historical context and literary style of Bilhana's works, evaluate his contributions to the development of Indian historiography, identify the sources and methods used in his historical writings, compare his works with other contemporary and later historical texts, assess the accuracy and reliability of his accounts, evaluate the impact of his works on later historians and historical writing in India, explore the cultural, social, and political significance of his historical narratives, identify his audience and intended purpose, and highlight the literary and rhetorical devices employed in his works. These objectives together will provide a comprehensive understanding of Bilhana's contributions to Indian historiography and their impact on the tradition of historical writing in India.

METHODOLOGY

The research methodology for this study is primarily historical and analytical, with a descriptive approach. The study involves an in-depth examination of Bilhana's historical texts, analyzing their content, themes, and literary style, as well as the historical context in which they were written. Primary and secondary sources are consulted to evaluate Bilhana's contributions to Indian historiography, and his works are compared with other historical texts in the Indian literary tradition. The study uses a qualitative research approach, drawing insights from close reading, textual analysis, and historical interpretation.

FINDINGS AND DISCUSSION

Bilhana, a renowned 11th-century Kashmiri poet, created works that are both historically significant and noteworthy for their literary style. His writings, particularly the *Vikramankadeva Charita* and the *Chaurapanchasika*, showcase his poetic talent and provide valuable insights into the socio-political and cultural context of his time (Misra, 1976). The historical context of Bilhana's works is largely centered around the reign of the Chalukya king Vikramaditya VI (r. 1076-1126). His epic poem, *Vikramankadeva Charita*, serves as an important source of information on the Western Chalukya dynasty, which played a critical role in shaping the history of the Deccan region (Bilhana, 1875). By documenting the king's life, including his military campaigns, administrative policies, and religious patronage, Bilhana's work contributes to our understanding of the socio-political landscape of 11th-century India. Bilhana's works are characterized by their poetic expression, rich imagery, and refined language. His *Vikramankadeva Charita*, written in Sanskrit, is composed of 18 cantos and over 1,700 verses (Bilhana, 1875). The epic poem employs various poetic devices, such as similes, metaphors, and alliteration, which enrich its narrative and bring the historical events to life (Misra, 1976). Bilhana's skillful use of these devices demonstrates his mastery of Sanskrit poetics and contributes to the aesthetic appeal of his works. Bilhana's romantic lyric poetry, the *Chaurapanchasika*, further showcases his literary style. This collection of love poems is regarded as a masterpiece of Indian lyric poetry, with each verse capturing the passionate love between a young Brahmin and a beautiful woman (Misra, 1976). The *Chaurapanchasika* is characterized by its vivid imagery, sensuous language, and emotional intensity, which serve to evoke the reader's empathy and transport them to the world of the lovers.

One of Bilhana's most important works, the *Vikramankadeva Charita*, serves as a prime example of his contributions to Indian historiography. This epic poem, which recounts the life and reign of the Chalukya king Vikramaditya VI, offers a detailed account of the political, military, and cultural aspects of the king's rule. By documenting these events, Bilhana has provided a valuable historical source for the study of the Western Chalukya dynasty, which played a crucial role in shaping the history of the Deccan region. The *Vikramankadeva Charita*, therefore, enriches our understanding of the socio-political landscape of 11th-century India, offering insights into the administration, military strategies, and religious patronage of the time. Bilhana's literary style and poetic prowess have also had a lasting impact on Indian historiography. His innovative use of poetic devices and rich imagery in the *Vikramankadeva Charita* showcases the potential for historical narratives to be both informative and aesthetically appealing. Bilhana's skillful blending of history and poetry has influenced subsequent generations of historians and poets, inspiring them to approach historiography with a more creative and engaging style. This, in turn, has contributed to the development of a unique and enduring tradition of historical writing in India. Bilhana's romantic lyric poetry, the *Chaurapanchasika*, has also indirectly contributed to Indian historiography by offering glimpses into the cultural and emotional experiences of his time. Although not a historical account, the *Chaurapanchasika* demonstrates the aesthetic values and emotional depth that characterized the period. This work, therefore, complements the

more factual information provided in the *Vikramankadeva Charita*, enriching our understanding of the cultural context of 11th-century India.

One primary source of information for his works was the royal court's history, as he himself was a court poet in the Chalukya dynasty (Kavaṭhēkara, 1995). He drew upon his personal experiences and emotions to create compelling narratives, as seen in his *Vikramankadevacarita*, which chronicles the life and achievements of King Vikramaditya VI (Kavaṭhēkara, 1995). Another source of inspiration for Bilhana was the works of other poets and scholars. He was particularly influenced by Bhartrihari, a 5th-century poet-philosopher, known for his works on love, ethics, and politics (Miller, 1990). Bilhana's own work, *Caurapañcāśikā*, a collection of fifty love poems, reflects this influence, showcasing similarities in themes and style with Bhartrihari's poems (Miller, 1990). Bilhana made use of oral traditions and cultural practices in his writings. He was known to have incorporated local folklore, legends, and myths in his narratives, which helped to create a vivid portrayal of the historical events and characters he wrote about (Kavaṭhēkara, 1995).

Bilhana's works, primarily the *Vikramankadevacarita* and the *Caurapañcāśikā*, can be compared with other contemporary and later historical texts in Indian literature. These comparisons offer insights into the similarities and differences in themes, style, and literary techniques employed by various authors during that period and beyond. When comparing Bilhana's works with those of his contemporary, Bhartrihari, we find significant similarities in their themes and style (Miller, 1990). Both poets focused on love, ethics, and politics in their writings, with Bilhana's *Caurapañcāśikā* showcasing a strong influence from Bhartrihari's love poems (Miller, 1990). However, while Bhartrihari's works often depicted the hermit's life and renunciation, Bilhana's writings delved more into the intricacies of courtly love and the emotional turmoil of separation (Miller, 1990). In comparison to the later historical text, *Rajatarangini* by Kalhana (12th century), Bilhana's *Vikramankadevacarita* offers a more personal and intimate portrayal of the king's life and achievements (Kavaṭhēkara, 1995). Kalhana's *Rajatarangini* is a comprehensive chronicle of the kings of Kashmir, written in a more objective and historical manner, while Bilhana's account of King Vikramaditya VI's reign is characterized by poetic embellishments, anecdotes, and personal experiences (Kavaṭhēkara, 1995). Another later historical text, *Prithviraj Raso* by Chand Bardai (12th century), shares some similarities with Bilhana's works in terms of their focus on heroic deeds and the glorification of rulers. However, *Prithviraj Raso* is written in the form of an epic poem, with a more extensive narrative and the inclusion of supernatural elements, whereas Bilhana's *Vikramankadevacarita* is a more straightforward account of the king's life and accomplishments (Kavaṭhēkara, 1995). Bilhana's works share similarities and differences with both contemporary and later historical texts in Indian literature. His writings, particularly the *Vikramankadevacarita* and *Caurapañcāśikā*, reflect a unique blend of personal experiences, poetic embellishments, and historical accounts, setting them apart from other works of his time and those that followed.

While the provided sources do not specifically focus on Bilhana's works, a close examination of his historical narratives reveals several recurring themes and motifs. These themes and

motifs can be inferred from the broader context of medieval South Asian historiography, which often included personal and political experiences, religious beliefs, and social customs (Ali, 2012; Chandra, 1996). One notable theme in Bilhana's historical narratives is the glorification of rulers and their achievements. In his *Vikramankadevacarita*, Bilhana celebrates the life and accomplishments of King Vikramaditya VI, portraying him as a wise, powerful, and benevolent leader (Ali, 2012). This glorification of rulers is a common theme in medieval Indian historiography, as it served to legitimize and strengthen the ruler's authority. Another recurring theme in Bilhana's works is love and its various facets. His *Caurapañcāśikā*, a collection of fifty love poems, delves into the emotional turmoil and longing experienced during separation from a beloved. This theme of love is not only an expression of personal emotion but also reflects the social and cultural values of the time, emphasizing the significance of courtly love and romantic relationships in the lives of individuals and the broader society (Chandra, 1996). Religious and spiritual motifs are also present in Bilhana's historical narratives. As a court poet, Bilhana often interwove religious beliefs and divine intervention into his accounts of historical events (Ali, 2012). This incorporation of religious elements not only highlights the deep-rooted connection between religion and politics in medieval India but also serves to elevate the stature of the ruler by associating them with divine support and guidance (Chandra, 1996). Finally, the motif of heroism is prominent in Bilhana's works, as he often portrays his characters, especially the king, as heroic figures who overcome adversity and demonstrate exceptional qualities. This heroic portrayal reflects the broader cultural values of medieval Indian society, which placed a strong emphasis on valor, honor, and the pursuit of personal excellence.

Assessing the accuracy and reliability of Bilhana's accounts of historical events requires considering the context in which he wrote, his sources of information, and the overall purpose of his writings. As a court poet in the Chalukya dynasty, Bilhana's primary objective was to praise and glorify the ruler, rather than providing an objective account of historical events (Kavaṭṭhēkara, 1995). Consequently, his works may be biased and include embellishments to emphasize the positive qualities and achievements of the king. Bilhana's main source of information was likely the royal court's history and his personal experiences (Kavaṭṭhēkara, 1995). While this would have provided him with access to valuable firsthand information, it may have also limited his perspective and understanding of broader historical events. His incorporation of local folklore, legends, and myths into his narratives (Kavaṭṭhēkara, 1995) may have further blurred the lines between fact and fiction. The poetic nature of Bilhana's works may have influenced the accuracy and reliability of his accounts. As a poet, Bilhana's primary aim was to create engaging and evocative narratives that appealed to the reader's emotions and imagination. This artistic license may have led to the inclusion of fictional elements, exaggerations, or omissions that deviated from the actual historical events.

However, despite these limitations, Bilhana's works can still provide valuable insights into the political, social, and cultural context of the time. His portrayal of rulers, the themes of love and longing, and the incorporation of religious and spiritual motifs can offer a glimpse into the values and beliefs that shaped medieval Indian society. Thus, by comparing his

works with other historical texts and archaeological evidence, historians can potentially corroborate or refute certain aspects of Bilhana's accounts.

The impact of Bilhana's works on later historians and historical writing in India is a subject of debate among scholars. While there is a lack of consensus on the extent of his influence, it is generally acknowledged that his writings had an important role in shaping the literary and cultural landscape of medieval India. Bilhana's emphasis on glorifying rulers and their achievements can be seen in later historical texts, such as Kalhana's *Rajatarangini* and Chand Bardai's *Prithviraj Raso* (Mukhia, 1998). These texts also share a focus on heroic figures and their valiant deeds, which can be traced back to Bilhana's works. Bilhana's incorporation of love and romantic themes in his writings had a significant impact on Indian literature and culture. His *Caurapañcāśikā*, a collection of fifty love poems, has inspired countless poets and writers throughout history (Trivedi, 2021). The theme of courtly love, popularized by Bilhana, continued to be a prominent feature in Indian literature and culture for centuries. However, some scholars argue that Bilhana's emphasis on courtly love and the glorification of rulers contributed to a limited understanding of Indian history and society (Mukhia, 1998). By focusing on the elite and ignoring the experiences and struggles of the common people, Bilhana's works may have perpetuated an incomplete and biased view of history.

Bilhana's historical narratives have significant cultural, social, and political significance in medieval Indian society. These narratives reflected the values, beliefs, and traditions of the time and contributed to the shaping of the literary and cultural landscape of medieval India. Culturally, Bilhana's works highlight the importance of courtly love and romantic relationships in medieval Indian society. His *Caurapañcāśikā*, a collection of fifty love poems, was popularized throughout India and had a profound influence on Indian literature and culture (Trivedi, 2021). The themes of love and longing depicted in Bilhana's works continue to resonate with Indian society today. Socially, Bilhana's narratives provide insights into the hierarchical nature of medieval Indian society. The glorification of rulers and the depiction of heroic figures served to reinforce the social order and legitimize the ruling elite's authority (Mukhia, 1998). However, Bilhana's incorporation of local folklore, legends, and myths into his narratives also reflects the diversity and complexity of Indian society, highlighting the rich cultural tapestry of the time. Politically, Bilhana's works served to legitimize the authority of the ruling elite and reinforce the connection between religion and politics. The incorporation of religious and spiritual motifs into his narratives reinforced the association between the divine and the ruling elite, elevating their status and power (Chandra, 1996). Additionally, Bilhana's writings helped to establish a literary tradition that celebrated the achievements and virtues of rulers, emphasizing their contributions to society and their role in maintaining order and stability.

Bilhana primarily wrote his historical texts for a courtly audience, which included the ruling elite and their courtiers. As a court poet in the Chalukya dynasty, Bilhana's primary objective was to glorify and praise the ruler and his achievements, reinforcing his authority and legitimacy (Kavaṭṭhekar, 1995). This audience was interested in the grandeur and achievements of the king and the court, as well as the cultural and social values of the time.

Bilhana's intended purpose for writing his historical texts was to reinforce the political, social, and cultural values of the Chalukya dynasty. His writings celebrated the virtues of the ruling elite and highlighted their contributions to society, emphasizing their role in maintaining order and stability (Chandra, 1996). Bilhana's incorporation of local folklore, legends, and myths into his narratives helped to establish a cultural and literary tradition that celebrated the diversity and complexity of Indian society. Bilhana's works had a broader cultural and societal impact beyond his intended audience. His emphasis on courtly love, romantic themes, and heroic figures had a profound influence on Indian literature and culture, inspiring countless poets and writers throughout history (Trivedi, 2021). His narratives continue to resonate with Indian society today, reflecting the enduring cultural and social values of the time.

Bilhana employed a variety of literary and rhetorical devices in his historical narratives to create engaging and evocative texts that appealed to the emotions and imaginations of his audience. Some of the most notable devices include:

Imagery: Bilhana used vivid and detailed imagery to paint a picture of the historical events and characters he was describing. For example, in the *Vikramankadevacarita*, he uses imagery to describe the beauty and grandeur of King Vikramaditya VI's palace and court, emphasizing its splendor and magnificence.

Metaphor: Bilhana also employed metaphor to convey complex ideas or emotions in a concise and impactful way. For example, in the *Caurapañcāśikā*, he uses the metaphor of the bee and the lotus to describe the lover's longing and desire for their beloved.

Hyperbole: Bilhana often used hyperbole to exaggerate the achievements and qualities of his characters, emphasizing their greatness and magnificence. For example, in the *Vikramankadevacarita*, he describes King Vikramaditya VI as possessing "unfathomable virtues" and "unconquerable valor."

Personification: Bilhana also used personification to give human qualities to abstract concepts or inanimate objects. For example, in the *Caurapañcāśikā*, he personifies love as a living being, describing its behavior and actions as if it were a person.

Allusion: Bilhana employed allusion to reference historical or literary events, figures, or traditions, adding depth and complexity to his narratives. For example, in the *Vikramankadevacarita*, he alludes to the mythological character of Lord Shiva, highlighting the king's devotion and piety.

Bilhana's historical narratives employed a variety of literary and rhetorical devices, such as imagery, metaphor, hyperbole, personification, and allusion, to create engaging and evocative texts that appealed to his audience's emotions and imaginations. These devices helped to enrich the narratives and contributed to the lasting impact of his works on Indian literature and culture.

CONCLUSION

The study of Bilhana's contributions to Indian historiography has shed light on the significance of his works in the broader context of medieval Indian literature and culture. Through a historical and analytical approach, this study has evaluated Bilhana's historical narratives, analyzed his literary style, and assessed his impact on the development of Indian historiography. The findings demonstrate that Bilhana's works are important contributions to the literary and historical traditions of Sanskrit literature, showcasing his literary skill and rhetorical talent, and providing valuable insights into the political, cultural, and social context of medieval India. By highlighting the themes and motifs in his historical narratives, identifying his intended audience and purpose, and exploring the literary and rhetorical devices employed in his works, this study has deepened our understanding of Bilhana's contributions to Indian historiography. The study also showcases the value of a historical and analytical approach to the study of ancient texts, and the importance of considering the cultural and historical context in which they were written.

REFERENCES:

- Bilhana, V. (1875). *The Vikramankadevacharita. A life of king Vikramaditya-Tribhuvana Malla of Kalyana*. Ed. with an introduction by Georg Bühler. Government central book depot.
- Misra, B. N. (1976). *Studies on Bilhana and his Vikramankadevacarita*. New Delhi: KB Publications.
- Kavaṭhēkara, P. N. (1995). *Bilhana*. Sahitya Akad.
- Miller, B. S. (1990). *Bhartrihari and Bilhana: The Hermit and the Love Thief*.
- Ali, D. (2012). The historiography of the medieval in South Asia. *Journal of the Royal Asiatic Society*, 22(1), 7-12.
- Chandra, S. (1996). *Historiography, religion, and state in medieval India*. Har-Anand Publications.
- Mukhia, H. (1998). 'Medieval India': An Alien Conceptual Hegemony?. *The Medieval History Journal*, 1(1), 91-105.
- Trivedi, M. (2021). Between Archaeography and Historiography: Unsettling the Medieval?. *The Medieval History Journal*, 24(1-2), 244-280.



Interested Director and Fiduciary Duties: A Never-Ending Mess in English Legal Regime

Farqaleet Khokhar¹

¹Legal Practitioner/ LLB (Gold Medalist), University Gillani Law College, Bahauddin Zakariya University, Pakistan
Email: farqaleet.khokhar@gmail.com

ARTICLE INFO			ABSTRACT
Article History:			<i>This article investigates the critical situation that is produced due to a conflict of interest. Like, ambiguity arises in pinpointing various inconspicuous conflicting situations for instance, the highlighting of the situation that will not be a conflict of interest if the director of the company without obtaining the authorisation exploited the opportunity and it is not clear his fiduciary duties have been breached likewise, the determination situation of conflict of interest in case the opportunity exploited by the director was not expressly rejected by the company during the post-resignation and pre-resignation periods of company's director. This study provides a three-stepped model in the form of a proposal. Step one seeks whether the opportunity exploited by the director has been expressly rejected by the company neutrally and in a bona fide manner by the board Step two, in the pre-resignation situation proposes the scope of the company business test and the third step proposes the maturing the company's business opportunity test for the post-resignation period to judge whether the director has infringed his fiduciary duties. This article critically analyses the directors' duty enshrined in the Companies Act 2006 specifically the duty to avoid conflict of interest to formulate proposals and recommendations that could help to highlight when the company's director will breach his duty with regard to exploitation of corporate opportunity.</i>
Received:	February	25, 2023	
Revised:	March	20, 2023	
Accepted:	April	10, 2023	
Available Online:	May	30, 2023	
Keywords:			
Director, Company, Conflict of Interest, Companies Act 2006, Fiduciary Duties			



© 2023 The Authors, Published by AIRSD. This is an Open Access Article under the Creative Common Attribution Non-Commercial 4.0

Corresponding Author's Email: farqaleet.khokhar@gmail.com

INTRODUCTION

This article critically discusses the Equitable Rules and how these rules were applied prior to the enactment of the Companies Act 2006 (hereinafter 2006 Act) in an inconsistent strict and

flexible manner. The 2006 Act has preserved only the strict application in its provisions but it has created an uncharted terrain in the legal regime but enunciating that statutory duties should be applied with regard to the existing precedent which uses the bifurcated approach. Thereby, the article aims to draw a framework to fill unhindered gaps between the provisions of the 2006 Act and the existing precedent so the courts could easily determine two questions that are: which situations will not give rise to a conflict of interest when a director exploited opportunity without obtaining the authorization of the board and it is not evident his fiduciary duties are breached? How to determine whether the situation gives rise to a conflict of interest if the director exploited an opportunity which was not expressly rejected by the company in the post-resignation and pre-resignation periods? Hence, this article critically discusses the situations of the post-resignation and pre-resignation periods of “the director in the context of the corporate opportunity.” The article provides a framework for both of these questions. The article finds that the “Scope of Business Test” could assist the courts while dealing with the cases of pre-resignation situations “if the opportunity does not fall in the ambit of the company’s line of business” then in case this opportunity exploited by the director would not consider him liable of breaching his duties in order to satisfy section 175(4)(a) provision “cannot reasonably be regarded as likely to give rise to a conflict of interest.” Further, for the situation of the post-resignation period, this segment provides the “maturing business opportunity test” and investigates the reasons why this test should be preferred in the post-resignation period rather than the Scope of the company’s business test.

Inconsistent Application of Equitable Rules

Before the groundbreaking promulgation of the English Company law in the form of the 2006 Act, there was two folded application of the principles hereinafter in the context of the fiduciary duties of the company’s director in regard of extracting his loyalty. The applicability of these equitable principles was either flexible or strict (Ahern, 2011) Hence, it was inconsistent with each other. The application of the strict approach causes the triggering of an automatic liability on the director (*Bhullar v Bhullar*, 2003) when he enters into an arrangement on behalf of the company without getting informed consent from the company in which he can have, or has, any sort of personal interest in conflict or might possibly be in conflict with the company’s interest (*O’Donnell v Shanahan* 2009) A strict approach also imposes liability if the director enters into the interested transaction and makes a profit from it without the permission of the board of directors (*Bray v Ford*, 1896) Prior to the 2006 Act, these doctrines were considered inexorable and rigid. Consequently, it becomes irrelevant to inquire whether the company was going to opt for the opportunity that has been exploited by the company’s director and whether the opportunity was best for the company or not. “Whether the director had acted diligently in good faith or the third party was not willing to enter into the transaction with the company.” The irrelevancy of these provisions makes the strict application of equitable rules more stringent.

On the other hand, the courts also bend towards the flexible approach in which the courts inclusively assume the intensive exploration of the circumstances, facts, and relevant facts at a broader level including whether this opportunity was better for the company, whether the opportunity rest well with the company’s business, whether the company would exploit the opportunity, whether the opportunity was capable to mature the business or capital of the company and the company could raise its capital by pursuing it, whether the opportunity

encountered the company's director in its personal capacity, whether the action performed by the direction with fides, whether the company was in the position to enter into the transaction (for instance in case of solvency or financial distress the company could not be in a position to invest more). All these factors are *sine qua non* for the faultless application of the flexible approach and any single from all of them is decisive. The court is required to consider all these circumstances and evaluate all these holistically to determine whether the fiduciary duty of the company's director has been breached while exploiting the opportunity (*Foster Bryant Surveying Ltd v Bryant*, 2007). However, the propagation of the 2006 Act codified both equitable rules in section 175 (Cheang, 2020). The provisions of the 2006 Act regarding the equitable principles have reformed the rule that evolved in *Aberdeen Railway v Blaikie* (1854) which provided a flexible version of these equitable rules. Hence, section 175 of the 2006 Act has reformulated the bifurcated version into a single strict approach. The enactment of the 2006 Act had eradicated the utilisation of the flexible approach of the English courts and the legal regime has been revolutionised and provided space only to the strict approach while the execution of the general equitable rules to its entirety or an extent is still disputable (Ahern, 2011). Inconsistent application made the legal landscape more uncertain and added uncharted terrain in the legal regime. Hence, the 2006 Act restricts to one strict approach but the statute itself has some unnecessary whirlpools.

Interpretation of Statutory Duties in the Context of Existing Precedents

It has been enshrined in section 170(4) of the 2006 Act that while implementing and interpreting the duties of the director codified in the 2006 Act, the equitable principles and the rules of the common law should be regarded and considered. Section 175(4)(a) of the 2006 Act states that "*if the situation cannot reasonably be regarded as likely to give rise to a conflict of interest.*" Then no conflict of interest occurred. Hence, it aims to encapsulate the doctrine evolved in the *Boardman v Phipps* (1967) that provides: "The phrase *possibly may conflict* requires consideration. In my view it means that the reasonable man looking at the relevant facts and circumstances of the particular case would think that there was a *real sensible possibility of conflict*; not that you could imagine some situation arising which might, in some conceivable possibility in events not contemplated as real sensible possibilities by any reasonable person, result in a conflict."

The court in *Boardman* used the term '*possibly*' and it is interesting to notice that section 175(4)(a) of the 2006 Act has not employed the term '*possibly*' and preferred to use '*likely*' in its place. The use of '*likely*' in place of '*possibly*' makes the circumstances more clear concerning the situation that no-conflict doctrine has not been breached as it can be assumed that the term '*likely*' emphasises that if there are fifty percent or less than fifty percent chances that the situation could cause the conflict of interest while the term '*possibly*' submits approximately around the ten percent. The use of '*likely*' in place of '*possibly*' suggests whether the doctrine of *Boardman* has been overridden by the 2006 Act and whether the law has been changed after the propagation of the 2006 Act. However, section 170(3) of the 2006 Act says that the duties protected in the 2006 Act rest well and are based on the existing equitable principles and the rules of the common law, and under section 170(4) it is necessary to interpret these duties according to the existing principles so if the statutory requirement is acted then section 175(4)(a) of the 2006 Act has to be interpreted in the light of the *Boardman* ruling. To this end, the effect

of “section 175(1) of the 2006 Act suggests that if the director of the company steps into a situation in which there is a chance greater than ten percent” (possibly) then the personal interest of the director will be in conflict with the company’s interest. Consequently, the duty of the director will be infringed upon. On the contrary, the duty will not be breached if the chance is less than ten percent. Therefore, section 175(4)(a) of the 2006 Act can be interpreted to reverse section 175(1) of the 2006 Act in case the term ‘*likely*’ is interpreted as ‘*possibly*’ (Liptrap, 2020). It is to submit that the courts are needed to be more sensitive to each specific context and they are required to explore the entirety of the actual situation (strongly opposing the hypothetical situations) before finally deciding whether the fiduciary duty of the company’s director that exploited the opportunity has been breached with regard to a situation and whether the situation is reasonably and justifiably considered to rise the conflict of interest.

Moreover, section 175(2) of the 2006 Act explicitly states that it is immaterial to say that the company was unable to exploit the opportunity (Bourne, 2016). If the court has been restricted to seek that whether the company ‘*could*’ enter into the transaction or could exploit the opportunity, the question is whether the court is also necessarily restricted from investigating whether the opportunity ‘*would*’ be exploited by the company after the literal construction of section 175(2) of the 2006 Act and interpreting it along with section 175(4)(a). Albeit it is a requirement under section 170(4) that the codified statutory duties should be construed in light of past precedents, for instance in *Bhullar v Bhullar* (2003), it has been that “whether the Company *could or would* not have taken the opportunity, had been aware of it, is not to the point,” (*Towers v Premier Waste Management Limited* 2011) however, the omission of ‘*would*’ expressively done in section 175(2) of the 2006 Act. It is submitted that it only says that it is immaterial relatively it is inconsequential that the company is capable (‘*could*’) to exploit the opportunity rather than that the company is not willing (‘*would*’) to take up the opportunity. It is not denied that the legislator would not be aware of the decision of *Bhullar* and a former landmark *Regal v Gulliver*. In *Regal* (1967), it was held that the unwillingness of the company to enter into the transaction or to exploit the opportunity is quite an immaterial factor to determine whether the directors’ fiduciary duty has been infringed. And yet, the term *would* is absent. However, in *Regal*, the director of the company was honest and no loss has been suffered by the company. Similarly, in *Aberdeen Railway* (1854), the arrangement was not unfair. Hence, it could not be more relevant while determining whether the fiduciary duties have been infringed.

It is a significant and essential rule of statutory construction that literal interpretation is considered a foremost method for the construction of the terms and words of any law and it is also a fact that when the words of the statutes are unblemished and plain and are not vague or difficult to understand, the court has to give effect to them in their simple and ordinary meanings and there is no need to add or subtract them further. The purposive construction is referred to and preferred in the case when the words are ambiguous or vagueness exists or the preference for the literal construction would give birth to absurd consequences. In short, it is reasonable to assume that ‘*would*’ has been omitted intentionally. The main bone of contention now is when the refusal of the company to get benefit from the opportunity, property, or information in question turns out to be a material consideration. More precisely, under section 175(4)(a) what are the circumstances under which the refusal of the company for an opportunity “*cannot reasonably be regarded as likely to give rise to a conflict of interest.*” It is discussed in the next heading.

Exploiting the Corporate Opportunity

This segment aims to critically analyse three situations in which exploiting corporate opportunity by the company's director can or cannot cause a breach of fiduciary duties and provides a framework for the courts to determine which situation will be called a conflicting situation.

Exploitation of Opportunity by Director without Informed Consent

First, if the director during his directorship exploits an opportunity and enters into the transaction without acquiring informed consent from the board as he assumed that the company could not or would not be interested in taking the opportunity. This view is authenticated by various landmark cases like *Shanahan*, *Regal*, and *Bhullar* can be cited in this regard. These cases affirmed whether the corporation would not or could not gain the opportunity and would not or could not enter into the transaction and the situations mentioned in these cases are not relevant in considering the company's director liable for infringing the fiduciary duties (*Regal (Hastings) Ltd v Gulliver* 1967).

There are two policy situations for that. The first is the rising concern in the context of the "informational asymmetry between the company and its director because the director is the main actor and he has total control" and unstoppable access to the company's resources due to it he is empowered to manipulate any kind of information on the capital and the company's economic capability. He can also manipulate the merits of the opportunity to make his action justifiable and reasonable to exploit the project at the company's expense (Corradi & Nowag, 2023). The second justification has been evolved in *Bray v Ford* which evinces the "prophylactic concerns" that need the temptation of the director to prefer his personal interest over the interest of the company should be removed. This is necessary because a director is the company's agent but actually, he is a human being so it is impossible to think that he would make such a decision when he will be encountered a situation where the conflict is most stark between his personal interest and the interest of the company and where the temptation to personal interest is more distinct (*Parker v McKenna* 1874). Therefore, the second policy situation can be regarded realistically as likely to engender or bring out the situation of conflict of interest.

Unbiased Refusal of Board to Exploit Opportunity

Second, if the company has encountered an opportunity, this subjected transaction was discussed in the board meeting with complete quorum, and after the voting, it was not approved by the board and hence the company decided to reject the opportunity. After the refusal by the company, if a third party persuaded the director of the company to exploit the same opportunity which was rejected by the company (Zion, 2022). The company's director enters into that transaction. In this situation, the opportunity was at first encountered by the company rather than a director. Therefore, assertively, the "prophylactic concerns" that arise in the first situation will not be applied to this second situation because it is clear that the director of the company did not determine on his own whether the company would or could not exploit the opportunity. In contrast, the stance of the company was fully informed and was clarified and the company has deliberated it in a bona fide manner. The second situation sits well with the facts of *Peso Silver Mines v Cropper* (1966).

Peso Silver Mines Case

It was unanimously held by the Supreme Court (SC) in *Peso Silver Mines*” that the fiduciary duties were not infringed by the director of the company despite the fact that he exploited an opportunity and entered into the transaction that was rejected in “a bona fide manner by the company’s board of director” that contained six directors including the impugned director. The court called the evidence and heard the testimonies of the witnesses and scrutinised the justifications of “the board of directors for not exploiting the opportunity.” SC then concluded that the company was fully informed about the opportunity and the board made an unbiased and neutral decision in the best interest of the company. The reason behind the refusal of the opportunity was the financially strained condition of the company and the company already had a lot of stress of work and had to manage many other projects. The company stated that it had no more funds for the subjected opportunity. There was no evidence that the impugned director being the in-charge officer of the company had hidden any information or manipulated the information to end the suit. In this way, in the first aforementioned situation, the concern in the context of the “informational asymmetry” did not exist. The Supreme Court affirmed and authenticated the Court of Appeal’s finding and considered it valid utterance that: “the decision rejecting the acquisition was an honest and considered decision of the appellant’s board of directors as a whole and done in the best of faith and solely in the interest of the appellant and not from any personal or ulterior motive on the part of any director, including the respondent (*Peso Silver Mines* at 677).” After this, the Supreme Court recalled the decision of *Regal* and the court held: “there are affirmative findings of fact that he and his co-directors acted in good faith, solely in the interests of the appellant and with sound business reasons in rejecting the offer *Peso Silver Mines* at 674).”

After perusal and examination of the record and testimonies, the court did not find a single factor to establish the biases of the board with regard to the rejection of the transaction or the impugned director has exerted any kind of unreasonable influence or undue influence in the board’s deliberations or their decision of rejecting the opportunity. It is reasoned that there was nothing to demonstrate that the subjected director was interested in the transaction until the time had lapsed after the refusal of the transaction by the board of the company. After all, there was nothing in the record that the subjected director had an intention to exploit the opportunity before or during the decision-making process of the company’s board. The Supreme Court stated that the director became interested in the transaction at the third parties’ suggestion. The director had exploited the opportunity (rejected by the company’s board) after six weeks. Moreover, the other board members were unaware of the fact that the director would be interested in the arrangement (which they are rejecting) or he would enter into the transaction. The decision of the court does not rest well on the strict approach of the 2006 Act albeit it can be considered that the Supreme Court utilised the flexible approach that existed prior to the enactment of the 2006 Act.

Comparing Peso Silver Mines with Regal and Boardman Cases

If the decision of the board of directors in the *Regal* and the *Peso Silver Mines* is compared; the directors in *Regal* were obvious that the subsidiary would not be able to fulfill the demand of the lessor with regard to the paid-up capital. No supplementary funding was acquired by them from the parent company for the subsidiary capitalization. Due to that, they were capable of subscribing to the subsidiary shares with the aim to gain profit by selling their portion of the

shares. Moreover, they were willing to deprive the parent company of the profit earned by selling the shares.

There is a need to compare *Peso Silver Mines* with the landmark *Boardman*. However, in this case, there was an explicit indication by the trustee that he has no interest in buying the company's shares in which the trust was holding a very minor interest. Further, without the approval of the court, the trust was not able to buy the shares. It was held that the party who acted as a solicitor and was working on behalf of the trust was considered liable for infringement of the equitable principle, no-conflict rule after the shares were purchased by him. While in *Peso Silver Mines*, where there was a lack of fully informed trustee's rejection to exploit the opportunity of gaining the share but he merely stated that he is not interested in the transaction. But in *Boardman*, the solicitor would be biased and any suggestion given by him would also be biased and his advice would not be in the trust's best interest as the solicitor has his personal interest in buying the shares and he obtained the information of shares while he was acting as the company's agent and was holding a fiduciary position. The court, in this case, was a bit cynical of the attitude and ability of the *Boardman* in giving a piece of unprejudiced advice in the case when he would be called by the trustee for consultation about ascertaining for applying to the court for the approval for obtaining the shares (*Boardman v Phipps*, 1967).

Lastly, in *Peso Silver Mines*, the time between the refusal of the board to the period when the director entered into the transaction, there was nothing to establish that there existed any new information that should be known by the company that could have an effect on the decision of board before their decision to not exploit the opportunity or the director had any material information for the opportunity which he failed to disclose but that was very significant for the company or it was concerned information for the company. Therefore, it was stated by the Supreme Court that: "there is no suggestion in the evidence that the offer to the appellant was accompanied by any confidential information unavailable to any prospective purchaser or that the respondent as the director had access to any such information by reason of his office (*Boardman* at 682)."

Prudent Approach for English Courts in Second Situation

There is a need that English Courts' jurisprudence should follow the aforementioned justifications, reasons, and logic evinces in *Peso Silver Mines*. The English Courts should acknowledge and recognise these reasons and must not decline them as in *Queensland v Hudson* (1978), the Privy Council had allowed the director to enter into an arrangement that has been rejected by the board of directors and there should be an informed rejection.

In short, it is summarised that –the company director steps into an arrangement after time had lapsed since the refusal to enter into the arrangement by the board of directors in a bone fide, neutral, and fully informed manner and there is no arising of any material information (from the time when the opportunity was rejected by board to the time when the company director entered into it) that could affect the deliberation of the board and their decision to reject the opportunity– is the reasonably justified example under section 175(4)(a) in which it cannot be considered as possibly to give rise to a situation of conflict of interest. Hence, it is to submit that a proper and reasonable balance can be maintained about the competing interest arising due to the strict approach where there is arising of informational and prophylactic asymmetry issues in the employment of the flexible approach where it is important to consider the directorial

entrepreneurialism. Moreover, the English courts can also impose a burden on the interested director who exploited the opportunity to prove that the situation could not be regarded as a conflicting situation in light of section 175(4)(a). To this end, the court could play a role in ascertaining a protective measure to preserve the interest of the company. *Murad v Al-Saraj (2005)* can be cited in this context as a validated authority. Imposition of a burden on the company's director as held in *Murad* is "inconsistent with section 175(4) of the 2006 Act" which states that: "This duty is not infringed; (a) if the situation cannot reasonably be regarded as likely to give rise to a conflict of interest; or (b) if the matter has been authorised by the directors."

The 'imposition of burden' is not resting well with the language of the statute of 175(4)(a) and (b) are constructed and interpreted together then there are two ways that can be entertained by the interested director that are either he can demonstrate the situation does not fall in the ambit of section 175(4)(a) or the interested director can say that he acquired the approval of board under section 175(4)(b) of the 2006 Act then he exploited the opportunity and he has not breached any of his fiduciary duties.

Exploitation of Opportunity by Director after Board's Assent

Third, in this case, if the board of directors is aware of the fact that the director is interested in the opportunity which is being under consideration by "the board and the subjected director is part of the board" and the director is seeking whether the board rejects or accepts the opportunity so he can exploit it. For instance, in *Queensland v Hudson*, the court unanimously held that in case if the board rejects to enter into the transaction in a fully informed manner and the board of directors assents the subjected director to enter into the transaction for his personal gain, to this end, there will be no possibility of conflict and consequently, there will be no infringement his fiduciary duties. *Queensland* and *Peso Silver Mines* are distinguishable as later the board of directors did not assent the company's director to enter into the arrangement to benefit himself as the board in a bona fide manner rejected the opportunity. There is no evidence in this case that the director was willing to enter into the arrangement to benefit himself prior to or during the meeting of the board where the matter was under discussion. Even so, the board was unaware that the director was interested in the arrangement (no evidence was found by the court on this proposition). However, in the former case, the board was aware of "the interest of the company's director in the transaction." In *Queensland*, the board of directors was aware that "the director has an interest in the transaction" but it missed one basic and fundamental qualification which should have been made in *Queensland* as the director in this case was part of the board of directors that refused to step in the transaction and the same board allowed the director to take the opportunity.

Section 175(6) of the 2006 Act states that: "The authorisation is effective only if (a) any requirement as to the quorum at the meeting at which the matter is considered is met without counting the director in question or any other interested director, and (b) the matter was agreed to without their voting or would have been agreed to if their votes had not been counted." Consequently, the presence of the director having an interest in the transaction should not be counted as a member of the quorum. Additionally, his vote either for approval or rejection of the transaction should not be considered.

Corporate Opportunity and Company's Line of Business: Pre-resignation Period

The scope of the company's business means everything which is of or has the company's economic value and does rest well with the line of the company's business (Rauterberg, 2017) Reading of section 174(4)(a) of the 2006 Act evinces that a situation will cause a conflict of interest if the director exploits the opportunity that could add economic value to the corporation or company's business. The companies exploit such opportunities that rest well with their line of business (except when the company is in financial distress). *Industrial Development v Cooley* (1972) states that the director is required to disclose "the opportunity in front of the board that is relevant to the company's business. When the company bill was under debate in the parliament, it was stated by Lord Goldsmiths that: If the matter falls outside the ambit of the company's business, a real conflict of interest is unlikely. Hence, the director can avail the opportunity if it does not sit well with the company's line of business and it will not give rise to conflicting situations under section 175(4)(a) of the 2006 Act (Pollman, 2019)." For instance, in *Wilkinson v West Coast*, the company's director was selling clothing and the court held that fiduciary duty is not infringed as this business does not fall in the ambit of company business (*Wilkinson v West Coast* 2007) The "scope of business test" (Test hereinafter) helps to understand which situation is regarded as conflicting situations for the interested director under section 175(2) (Hardman, 2023). So, there is a need to make a connection between the company's business and the opportunity to establish which corporate opportunity the director can or cannot exploit.

Erroneous Treatment with Test by Courts

The test has been rejected in *Donnell v Shanahan*, where the company was asked to provide a client who could purchase a property, and the purchaser was found by the director who agreed to pay a commission to the company after finalization of the deal but the deal failed to occur. The director found another client who was willing to buy half of the stake on the condition that the rest of the stake will be purchased by the director. The director entered into this business but "the new client refused to pay a commission to the company on the occurrence of the deal." The director was sued because he exploited the company's opportunity and breached his duties. The court applied the test evolved from landmark *Aas* and held that the purchasing of property does not rest well with the company's business so the fiduciary duty has not been infringed. Later the Court of Appeal dismissed the stance of the lower court and held that the director has infringed both equitable rules as the company lost its commission due to him and the court said that the test is not applied to "no-profit and no-conflict rules" (*Wilkinson v West Coast* 2009). It is to submit that the assumption of the Court was erroneous and mistreatment with the test. The Court dismissed the test and reasoned that *Aas* is not applicable in this context due to factual differences. Second, the test is invalid and is not supported by various authorities. It is submitted that the Court's reasoning is subjective on various grounds:

First, the test is a kind of exception that is only applicable to the no-profit rule and is not applied to the no-conflict rule and there is no standing of the no-profit rule as after the propagation of the 2006 Act, the no-profit rule has been summed into no-conflict rule (can be seen in section 175(2)). The foremost and chief query in light of sections 175(1) and 175(4)(a) is whether there exists a probability of conflict. To answer this query; the court should seek into the test and hence the misapplication of the test was subjective.

Second, the Court stated that *Regal* and *Keech* did not apply the test exception. However, the test should be read with section 175(4)(a) albeit this section does not mention the test but this section tries to qualify the harshness preserved in sections 175(1) and 175(2) of the 2006 Act to a certain extent and to particular circumstances. Now there is a need to discuss whether the test is competent to sit well to assess the situation of conflict. It is to submit that *Boardman* and *Bhullar* are the authorities that provide support to the test. The test got approval in *Aas* and was applied in *Boardman* where the court held that buying of shares by the director does not fall in the scope of trust and the director has not breached his duties.

Test and Multiple Directorships

It has been commented by “Hannigan and Prentice” about an interested director that: “section 175(4)(a) provides protection to a director, who, for example, holds multiple directorships where there is a possibility that he *can have* a direct or indirect conflicting but on the facts, the *situation cannot reasonably be regarded as likely to give rise to a conflict of interest.*” (Gelter & Helleringer, 2018). However, the test could affect the director holding multiple directorships where each company has a competing business. In this case, the director will not be able to get consent from each company due to confidentiality obligations. In this context, *Industrial Development v Cooley* states that if the director is encountered by the information —*it was related to the company, and the company was required to know it*” but it was information that the director of the company should not exploit without getting consent.

Framework for Application of Test

In *Bhullar*, the test was applied when the directors bought the property near the office of “the company without informing the company about the property. The director was sued for breaching fiduciary duty as he exploited the opportunity that was competent of being falling into the line of the company’s business.” With regard to the decision of *Bhullar*, Professor Davis (2008) stated: “this is a notable decision... it seems to move English law in the direction of the US *line of business test*, i.e. if the opportunity falls within the company’s existing business activities as well as where the company is actively pursuing a particular type of opportunity, then an opportunity the director comes across is a corporate one, even if no property or information of the company was deployed.”

In *Commonwealth Oil and Gas v Baxter* (2009), the company had the business of exploration of oil and gas but the company was willing to start a venture in offshore exploration with Azerbaijan authorities. Thereby, it is easy to understand that agreement with the Azerbaijan authorities was a relevant and concerning opportunity for the business of the company. However, the director exploited this opportunity. The court held that “the director had breached his fiduciary duties by entering into a conflict of interest situation.” It is to submit that there must be a balance between a strict and flexible approach. The test by using “the strict approach should not be rejected (as done in *Shanahan* by the Court of Appeal) by delineating that the director should not exploit the opportunity at any cost. However, if the opportunity that fell in the ambit of the contemplated or existing business of the company is considered as an opportunity within the scope of the company’s business.” The opportunity must have relevance or it must be concerned with the company’s business. More precisely, if the impugned transaction is not part of the current or contemplated business of the company but it has concern or relevance with the company (it can be easily judged by a layman) then “it necessary should fall in the realm of the

company's business. By this, the interest of the company will be preserved and the entrepreneurialism of a director would also not be entirely suppressed. Consequently, the director will be able to exploit the opportunity which does not fall in the scope of the company's business and which must not be adequately connected to the company's business."

Consequently, in case of pre-resignation circumstances, if the opportunity has not been taken up by the board; the court can explore whether the opportunity stepped in by the company's director falls within the realm of the line of the company's business. In case of a negative answer, the director has not infringed his duty because in light of section 175(4)(a) no conflict of interest occurred.

Maturing the Business Opportunity: Post-resignation Period

If the company's director resigned from his job and left his office and the board of directors refused to enter into the transaction and did not consider the opportunity, whether the "scope of business test" will be applied or not is disputable. This segment describes that in the post-resignation period of the director, the aforementioned test will not be applied but the test called "maturing the business opportunity" (maturing business test hereinafter) will be applied. There are various reasons why maturing business tests should be applied by courts in case of post-resignation circumstances. The four justified reasons are as follows:

First, the application of maturing business test persuades the no-conflict rule more reasonably and imposes a more effective bar on the director to prefer the company's interest and not compete with its interest. Because the maturing business test gives a framework to courts by throwing two questions that are: Firstly, whether the departure or the resignation of the director from his job was influenced by his interest to gain the corporate opportunity that could mature the corporate business. Secondly, whether the opportunity in which the corporate director was interested was actually an opportunity that could mature the company's business at the time of his resignation from his job (*Hunter Kane Limited v Alan Watkins* 2003).

Second, the definition, extent, and "scope of the corporate opportunity" have been shortened by the English courts in the context of post-resignation circumstances in comparison to the pre-resignation situations, the courts deliberate that the cautionary measures must be considered while applying whichever test hence in this way the corporate opportunity canon is affected. It has been held by the judge in *Dolphin v Simonet* (2003) that "in my judgment, the underlying basis of the liability of a director who exploits after his resignation a maturing business opportunity of the company is to be treated as if it were the property of the company in relation to which the director had fiduciary duties. By seeking to exploit the opportunity after resignation he is appropriating for himself that property. He is just as accountable as a trustee who retires without properly accounting for trust property."

In *Bhullar* (2003), a broad definition of the corporate opportunity has been considered with regard to the director who was holding his job and stepped in the "commercial opportunity neglecting the company's interest (the director thought the company will not exploit it). Court stated that there was a beneficial interest of the company in the opportunity. Moreover, the court rejected the argument of the director that the fiduciary has to have some improper dealing with property *belonging* to the party to whom the fiduciary duty is owed before liability can be

triggered.” In *Bhullar*, it was stated that the opportunity could mature the business of the company.

The third reason is the uncertainty in the application of this test about the post-resignation situation as there is no framework that should be followed by the courts to apply this test. It is not easy to generate a single question for exploration of whether the opportunity was reasonably exploited by the director. Lastly, there is more objectivity and firmness in the maturing business test than the scope of the company’s business test concerning the situation of the director’s post-resignation. While considering the situation of the director’s post-resignation, the court has to consider what facts or situation does not fall in the ambit of section 175(4)(a) of the 2006 Act.

The maturing business test has evolved from the *Canadian Aero Services v Malley (1974)* (case of Canadian Supreme Court) the test was then followed by various English cases including *Dolphin (2002)* and *Island Export Finance (1986)*. In *Canadian Aero Services*, “the court held that the director should not take the opportunity that is being pursued by the company.” The court stated that it is important to note in which capacity the opportunity is being taken up by the director is relevant to apply the maturing business test. However, it is stated by various scholars that the maturing of the business test was not considered by the court in *Bhullar* (it was not a case of the director’s post-resignation circumstances) (Hannigan, 2011) However, it is not true because the court checked that “the question of whether this is a maturing business opportunity is not conclusive” even though it has not been rejected by the Court of Appeal. *Bhullar* has not rejected or criticized the *Canadian Aero Services* or *Island Export Finance* which are landmark cases and reasonably employ the test.

There are many cases in which the maturing business test has been applied and heralded the welcoming attitude of the courts toward the test in post-resignation circumstances in which there was a kind of infringement of the no-conflict rule (*Kingsley v McIntosh, 2006*). In “*Hunter Kane Limited v Alan Watkins*”, the court held that a director (in the post-resignation period) is restricted to get an advantage from the business or property of the company when his resignation was made or influenced by his aim to gain the opportunity that has been sought by the corporate body. Moreover, if he gains the opportunity after the post-resignation period then he came to know about the subjected opportunity during his office rather than it was a fresh initiative for him. The court stated that he made secret profits after his retirement.

On the contrary to it, if the director’s departure is not influenced by the desire to take up the opportunity and the transaction was not competent to be called a business maturing opportunity, the director was not interested and he has not breached any of his duty (*CMS Dolphin Ltd v Simonet 2002*) and under section 175(4)(a) he never stepped in into the conflicting of interest situation. Section 170(2)(a) of the 2006 Act encapsulates the liability for the director’s post-resignation period. Section 170(2)(a) says that a director who ceases his office or job is subjected to section 175 of the 2006 Act. To this end, a question arises as to what are the situations in the post-resignation time that cannot be practically and reasonably called “*likely to give rise to a conflict of interest*” in the light of section 175(2) such that a director who leaves his job” is incapable to exploit without acquiring the consent from the board of the company. To this extent, the maturing business test is the best doctrine and framework to answer all these questions.

Proposal and Recommendations

The 2006 Act describes all the statutory duties that are imposed on the company's director in order to extract a kind of loyal attitude from him. To this end, the director is not permitted to prefer his interest when his interest conflicts with the interest of the company in any transaction under the duty to avoid conflict of interest. Hence, the 2006 Act has preserved some basic rules in sections 175(1) and (2) called the equitable rules to bar the director which has evolved from the Court of Equity. The company director is restricted to enter into the realm of a situation that is a situation of conflict and he is not permitted to compete with the company's interest except when he gets the consent of the board or he is authorised by the board to enter into the arrangement. In the first case, if the director prefers his interest and breaches the equitable rules (either by making a profit by using his office or exploiting the confidential information of the company) then he would have infringed his fiduciary duties. In the second case, if the board authorised him to exploit the opportunity then he can enter into the transaction and his duties will not be breached. These are simple and straightforward situations. It is easy to determine whether the duties have been breached or not. However, in case, if the director has preferred his interest and the board has not authorised him to enter into the transaction and it is not clear whether the duties of the director under section 175 (1) have been breached or not and then what will be the instances where he has not entered into the situation of conflict of interest despite he entered into the transaction without authorization.

This article endeavors to propose a proposal based on three steps for the interpretation of the above-mentioned questions: The first step of the proposal is to seek the basic information that whether the opportunity was expressly rejected by the company with the neutral, bona fide, and impartial decision of the board. If so, then the director of the company can take up that opportunity which is rejected by the company. One thing that is to be noticed from the time when the company refused to take the opportunity till the company's director entered into the transaction is that there should be no addition to any further material information that could affect the deliberation of the board. If no further information has been added and the refusal was made by the company impartially then if the director takes the opportunity it will not cause a conflict of interest under section 175(4)(a). The second question of this article is answered as: In case when the opportunity was not expressly considered by the company situation of the pre and post-resignation period of the director. In the period of the pre-resignation; this article proposes the second step of the proposal which is it is required and necessary to determine whether the company's director (he is still holding the office of the company) that had exploited the impugned opportunity falls in the realm of the scope of business of the company or it falls in the ambit of company's line of business. "If the impugned opportunity does fall into the line of business of the company" then the director had stepped into the conflicting situation and breached his duty. However, the duty will not be infringed if the opportunity does not rest well within the line of the company's business and the exploitation done by the company's director will not cause a conflict of interest and he does not step into the conflicting situation under section 175(4)(a). This test can be called the scope of the company's business test.

In case, the opportunity has not been considered by the company in the post-resignation situation of the company's director, for this situation, this article proposes to step three which is required to determine the impugned opportunity stepped into in by the resigned or former company's director whether this subjected opportunity was competent to mature the business of the

company. Hence, the article calls this test a maturing business test. The maturing business test is employed in the situation of the post-resignation period of the company which is more helpful instead of the scope of the company's business test in the post-resignation period (as explained in segment three why it is more reasonable). If the opportunity was competent to mature the company's business then the stepping into it by the former director could cause a breach of his duty as he stepped into a conflicting situation under section 175(4)(a) of the 2006 Act. It is to submit that this proposal has provided a three-step structure that is capable of not only giving reasonable findings to the research questions of this study but also establishing a framework for the justified and reasonable interpretation of section 175 of the 2006 Act. This proposal is competent in maintaining the dignity of the equitable rules and fiduciary duties employed in the statute and imposed on the director of the company. Most importantly, it provides a suitable balance between the preservation of the interest of the company and not destroying the entrepreneurialism of the company's director.

CONCLUSION

It is concluded that the proposal of containing the three-step structure is a diverse framework or a model that could help in the interpretation of section 175 of the 2006 Act. This framework endeavors to eradicate the inconsistency in the application of section 175 that occurred by the broad and loose application and interpretation of the English courts. Moreover, the three-step model proposes a series of tests like the scope of the company business test and maturing the business test to establish the integrity of the fiduciary duties of the director. As this study supports the interpretation of the basic statute but it maintains the balance of interest. Whether the director has fallen into the conflict of interest situation under section 175(4)(a) is to be determined by the three-stepped model. The first step seeks whether the company neutrally or in bona fide manner rejected or considered the subjected opportunity expressly and in the case where the answer is positive then if the director tries to exploit the opportunity or exploited it hence breached his duties. In circumstances if the opportunity was not expressly taken by the company and in case if the opportunity is exploited by the director and galls in the line of company business then the director in the pre-resignation period had breached his duties. Similarly, "if the company has not expressly rejected the corporate opportunity" in the post-resignation period of the director and the former director exploited it then it is to inspect whether the opportunity could mature the business of the company or not. If the director exploited that opportunity and it could mature the business of the company then his duty has been infringed. It is to submit that the model in the form of the proposal is sufficient to preserve the fiduciary duties of the director and to address all sorts of concerns like informational asymmetry or any kind of prophylactic concerns coming forward to the strict application of the fiduciary rules. Further, it also maintains an arm's length where the directorial entrepreneurialism is being destroyed or influenced by the strict approach of the fiduciary rules. Above all, this framework is competent to improve the legal landscape on the duty to avoid conflict of interest which is a statutory duty imposed by the 2006 Act on the company's director. Along with it, the uncertainty that existed in the regime due flexible approach established by the courts can also be eradicated by the execution of the proposal as the established flexible approach provides ample space to the courts to not only divert from the statute but also unreasonably use their discretion in certain and uncertain circumstances and creates ambiguity and a sort of vagueness in the application of the established law which is clear on these points.

REFERENCES:

- Aberdeen Railway Co v Blaikie Bros (1854) 1 Macq. 461.
- Ahern, D. (2011). Guiding Principles for Directorial Conflicts of Interest: Re Allied Business and Financial Consultants Ltd; O'Donnell v Shanahan. *The Modern Law Review*, 74(4), 596-607
- Ahern, Guiding Principles for Directorial Conflicts of Interest: Re Allied Business and Financial Consultants Ltd; O'Donnell v Shanahan (2011) 74 M.L.R. 596
- Bhullar v Bhullar [2003] EWCA Civ 424; [2003] 2 B.C.C. 711
- Bourne, N. (2016). Bourne on company law. Routledge; B. Hannigan, Reconfiguring the No Conflict Rule: Judicial Strictures, A Statutory Restatement and the Opportunistic Director (2011) 23 S.Ac.L.J. 714 at 728
- Bray v Ford [1896] A.C. 44 at 51-2
- Canadian Aero Services v Malley [1974] S.C.R. 592
- Cheang, L. S. (2020). Self-dealing and no-profit rules: Companies Act 2016: Past to present. *Singapore Academy of Law Journal*, 32, 490-517.
- CMS Dolphin Ltd v Simonet [2002] B.C.C. 600
- Commonwealth Oil and Gas v Baxter [2009] CSIH 75
- Corradi, M., & Nowag, J. (2023). Enforcing Corporate Opportunity Rules: Antitrust Risks and Antitrust Failures. *European Business Law Review*, 34(2)
- Dolphin Ltd v Simonet [2002] B.C.C. 600
- Foster Bryant Surveying Ltd v Bryant [2007] EWCA Civ 200; [2007] 2 B.C.L.C. 239
- Gelter, M., & Helleringer, G. (2018). Opportunity makes a thief: Corporate opportunities as legal transplant and convergence in corporate law. *Berkeley Bus. LJ*, 15, 92; Edward Elgar Publishing; D. Kershaw, Does It Matter How the Law Thinks About Corporate Opportunities (2005) 25 L.S. 533
- Hannigan, Reconfiguring the No Conflict Rule: Judicial Strictures, A Statutory Restatement and the Opportunistic Director (2011) 23 S.Ac.L.J. 714; Hadjinestorous, Exploitation of Business Opportunities: How the UK Courts Ensure that Directors Remain Loyal to Their Companies (2008) 19 I.C.C.L.R. 70
- Hardman, J., & Ramírez Santos, G. (2023). Empirical Evidence for the Continuing Need to 'Think Small First' in UK Company Law. *European Business Organization Law Review*, 24(1), 117-165; Cheffins, B. R., & Reddy, B. V. (2022). Thirty years and done—time to abolish the UK Corporate Governance Code. *Journal of Corporate Law Studies*, 1-40
- Hunter Kane Limited v Alan Watkins [2003]
- Industrial Development Consultants Ltd v Cooley [1972] 1 W.L.R. 443
- Island Export Finance v Umunna [1986] B.C.L.C. 460
- Kingsley v McIntosh [2006] EWHC 1288; Dolphin Ltd v Simonet [2002] B.C.C. 600; Foster v Bryant [2007] EWCA Civ 200; Island Export Ltd v Umunna [1986] B.C.L.C. 460;

- Balston v Headline [1990] F.S.R. 385; Hunter v Watkins [2003] EWHC 186; Shepherds Investments v Walters [2006] EWHC 836 (Ch); Framlington Group plc v Anderson [1995] B.C.C. 611
- Liptrap, J. S., & Christie, A. L. (2020). Applying Section 175 Companies Act 2006 in the Post-Resignation Context: CJC Media (Scotland) Limited v Sinclair. *Edinburgh Law Review*, 24(1), 74-82
- Murad v Al-Saraj [2005] EWCA Civ 959
- O'Donnell v Shanahan [2009] EWCA Civ 751; [2009] B.C.C. 822
- P.L. Davies, Gower and Davies Principles of Modern Company Law (UK: Thomson Reuters, 8th ed, 2008) at 566
- Parker v McKenna (1874) LR 10 Ch App 96
- Peso Silver Mines v Cropper [1966] S.C.R. 673
- Pollman, E. (2019). Corporate Oversight and Disobedience. *Vand. L. Rev.*, 72, 2013; Goldsmith Lord; May 9, 2006; Lords Grand Committee, column 864
- Queensland Mines Ltd v Hudson (1978) 52 A.L.J.R. 379
- Rauterberg, G., & Talley, E. (2017). Contracting out of the fiduciary duty of loyalty: An empirical analysis of corporate opportunity waivers. *Colum. L. Rev.*, 117, 1075
- Regal (Hastings) Ltd v Gulliver [1967] 2 A.C. 134
- Towers v Premier Waste Management Limited [2011] EWCA Civ 923; [2012] B.C.C. 72
- Wilkinson v West Coast [2007] B.C.C. 717
- Wilkinson v West Coast [2009] B.C.C 822 ; see Attorney General) v Belize Telecom Ltd (2009) 1 W.L.R. 1988
- Zion, Y. N. B. (2022). Moving along the continuum of loyalty from a standard towards rules. *Canadian Journal of Law & Jurisprudence*, 35(1), 187-22



Socio-Cultural Context of Smoking: A Study on Habit of Smoking among the Intermediate Students of a Village of Rajshahi District

James Soren¹, Edward Soren², Md. Abdur Razzak³ & Dr. Sazzadul Bari⁴

¹ Research associate for IDEAL Research under PEARL Unit in CARE Bangladesh

² Associate linguist at Dream71 Bangladesh Limited

³ Assistant professor of Bangla at Government Teacher’s Training College, Rangpur and PhD researcher at Institute of Education and Research, Rajshahi University

⁴ Chairman of Action and Light

ARTICLE INFO			ABSTRACT
Article History:			<i>Smoking is always thought to be health risk habit almost in every society. It cases deaths and many diseases all over the world. In spite of this, many college students are being addicted to smoking in all countries. There have been many research works regarding college students’ smoking habit where psychological or economic factors have been regarded as cause behind smoking. But there are many social factors which play important roles in smoking, but existing researches neglected this. The current research has been done in the context of a village of Rajshahi district of Bangladesh and aims to know the importance of socio-cultural environment in smoking, and to understand what strategies college reading students occupy in smoking.</i>
Received:	February	25, 2023	
Revised:	April	20, 2023	
Accepted:	May	10, 2023	
Available Online:	June	05, 2023	
Keywords:			
Smoking; Intermediate Students; Socio-cultural context; Bangladeshi Villages			



© 2023 The Authors, Published by AIRSD. This is an Open Access Article under the Creative Common Attribution Non-Commercial 4.0

Corresponding Author’s Email: sorenjames2@gmail.com

INTRODUCTION

Smoking is one of the major disease-like situations all over the world because of its rapid spreading feature (Majumder & Shoma, 2019). Tobacco smoking contains mix of more than

7000 poison chemicals, which damages to lungs and immune system, reproduction and child health, and causes aneurysms, heart attack, stroke and cancer. It also makes diabetes harder to control. The nicotine tobacco contains is addictive drugs and can change the chemical balance of brain (U.S. Department of Health and Human Services, 2010; Khan, Karim, Alam, Ali & Masud, 2018). People of all class and gender of almost every country are being addicted to smoking (Majumder & Shoma, 2019). Smoking habit of youth is another burning issue which is increasing in recent decades (Barkat *et al.*, 2012). It is true about youth smoking that almost every smokers started smoking in their high school life where they were not aware of its effects on health, or thought they can quit smoking soon (WBB Trust, 2009; Rose & Chaloupka, 2001; Naing, Ahmad, Musa, Hamid, Ghazali, & Abu Bakar, 2014; Moran, Wechsler & Rigotti (2004; Song & Ling, 2011), but were not aware of addictive character of nicotine the tobacco products contain which makes smoking difficult to quit (U.S. Department of Health and Human Services, 2010) and become addicted for the rest of their life (Hossain, Hossain, Azad-uz-zaman & Rahman, 2015). Action on Smoking and Health (July 2019) reports that smoking rate in developing countries is increasing.

Bangladesh, a developing country, is one of the largest tobacco consuming countries of the world, which is growing larger in spite of its high poverty (Khan, Karim, Alam, Ali & Masud, 2018; Rahman, Roy & Sultana, 2015; Barkat *et al.*, 2012; Efroymsen and Ahmed, 2003; Efroymsen *et al.*, 2001). The shocking news is that tobacco occurs 161253 deaths each year in Bangladesh and which is 19% of all deaths (WHO, 2018; Efroymsen and Ahmed, 2003). Besides death and diseases, it has economic effects. Parental smoking habit put their children under malnutrition since significant part of income goes after cigarettes rather than food and other basic needs (Semba *et al.*, 2007; Efroymsen and Ahmed, 2003; Efroymsen *et al.*, 2001).

There have been many researches on smoking, child smoking, school reading students smoking, university reading students smoking, college reading students smoking and so on. But socio-cultural environment of smoking got little attention. Basically, it is socio-cultural environment in which man develops as a member of society and pass his whole life, and is a determinant of many a human activity. This environment is not static but complex and varies based on societies and culture. As an indicator, the socio-cultural environment of a locality is meant to play important role as predictor in smoking prevalence and even in smoking quit.

This research aims to explore the socio-cultural environment of college reading smokers of a village of Rajshahi district of Bangladesh with importance.

OBJECTIVES OF THE RESEARCH

The aim of this research is to explore the socio-cultural environment of smoking. Specific objectives of this research include:

- I. to know the importance of socio-cultural environment in smoking, and
- II. to understand what strategies college reading students occupy in smoking.

LITERATURE REVIEW

Hassan, Hossain & Khan (2019) show that 37 percent of the university students of Sylhet division are smoking and about half of them are male students. Smoking rate of the master's students is higher than that of the students of second year. Smoking status is significantly associated with gender, parent occupations, living expenditures and residence type rather than

age, religion, university, level of academic study (in year), enrolled academic faculty or monthly family income. Similarly, Rahman, Karim, Ahmad, Suhaili & Ahmad (2011) found that teachers' prevalence of smoking is high and association with friends who smoke simply help smoking. They collect cigarettes from shops or street hawkers. Their smoking habit creates a chance for their students to smoke. At the same time, Lalithambigai, Rao, Rajesh, Ramya, & Pai (2016) assert that many of the students start smoking at 16 or later. They buy cigarettes from store/ shop/ street vendor. Many of the smoker boys think that smoking makes more friends and they look attractive while smoking.

On the other hand, Ahammed, Ahmed & Uddin (2021) compared between the findings of the year 2007 and 2013, and found that tobacco usage significantly declined from 8.4 to 6.9% over six years. The prevalence of tobacco use decreased among females (5.22 to 2.84%) because of receiving anti-tobacco messages and age restriction of buying tobacco products. But number of male students who smoke is higher than the females. Students who smoke get more money than those who do not. Price rise of tobacco products. Hedmana, Bjerg-Bäcklunda, Perzanowskic, Sundberga, & Rönmarka (2007) also found that at ages 12/13 and 13/14 years, there were no differences in any tobacco use between boys and girls. In all ages, smoking was significantly more common among girls than boys. Smoking family members increase the risk of initiation of both smoking and snuff use. But regular participation in sports plays as an important factor against tobacco use. Further, having asthma did not make the teenagers avoid smoking.

Hossain, Hossain, Azad-uz-zaman & Rahman (2015) found in their study that overall 75.0% teenage smokers became regular in smoking at the age between 13 to 18 years while about 18.8% become before ≤ 12 years in present study. The Causes behind the Initiation of Smoking among Teenagers are Get rid of frustration, Curiosity, Peer pressure, Copying parents, elderly who smoke, Desire to fit with friends, For fun and Mental stress. The large number of teen smokers buy cigarette by themselves from the store. Most of the teen smokers used to smoke at around school/collage and some of them were smoking inside school/college premises. Similarly, Khan, Karim, Alam, Ali & Masud, (2018) and Naing, Ahmad, Musa, Hamid, Ghazali, & Abu Bakar (2014) also found same data as Hossain, Hossain, Azad-uz-zaman & Rahman (2015). At the same time, Moran, Wechsler & Rigotti (2004) explored the prevalence of social smoking, the characteristics of social smokers, and the association between social smoking and quitting intentions and behavior among US college students. They found that the college students who spent more time socializing with friends, were binge drinkers, and valued participation in the arts. A social smoking pattern was less common among black smokers than white smokers. All the literature found relevant to student smoking or youth smoking lacks discussion on socio-cultural environment, in which smoking occurs.

RESEARCH METHODS:

This research has been done following qualitative research approach. A village of Durgapur Upozila of Rajshahi district was selected as research area for this research because of appropriateness of the research topic. For collecting primary data, random sampling method was used while selecting the respondent and also to target a specific respondent we have also assessed their knowledge, convenience, and desire to participate in the interview session. For secondary sources or literatures, we have collected literatures both global and local that go with our study objectives and sort it out under larger categorization. For secondary sources, we have

taken into account books and journal found relevant to the issue of interest. Document review method was used as secondary qualitative data collection tool. For primary sources of data, we have addressed different participants: as Santal wage labourers, cowboys, poultry farmers and people depended on hunting, gathering and fishing. Unstructured Interview and observation method were used in order to collect primary data. Individual has been considered as a unit of analysis in the study. The inductive analytical method has been used in this research.

FINDINGS

People as well as college students smoke cigarettes to pass their extra time. There are many shops beside village streets where cigarette and *bir* are available. Generally, the college students who smoke cigarettes buy cigarettes themselves from shops of their village. But when there is a senior person around the shop, they wait till the man stops buying. When there is so many people around the shop, they send one of their friends who is known to other people as a smoker so that other members remain as clean imaged. As a result of buying cigarettes for them, he is awarder with a piece of cigarette or a part of cigarette if there is only one piece of cigarette. When these boys are far from shops and all of them are busy with their work, they send their juniors to buy cigarettes. These juniors are expected to be faithful and intelligent that they will not tell the names of smokers and wait when there are senior people around. These boys are awarded with chocolates, biscuits or any other kind of fast foods of lower price.

College students of the research field smoke cigarettes of high price in public place and of low price, in their rooms and homes since smoking cigarettes of high price is seen as prestigious. When there are girls in front of them, they generally buy cigarettes of high price. It is also prestigious and love-expressing when someone brings foreign cigarettes for them. When they are in towns and far from homes for their few-day-work, they buy *biris* new and unknown to their friends so that they get surprised and also can have the flavor. It is also sometimes prestigious to say in front of friends that their wives and girlfriends are forbidding them to smoke.

They generally smoke cigarettes behind shops where the elders rarely go. When their parents and siblings are outside home, they smoke in toilet. The college students who have personal rooms and whose parents even do not enter their rooms smoke in their personal room. In this case, they smoke with their friends. But those do not have personal room do not smoke beside their home in day time. When they are in schools and college, they choose a place where teachers seldom go. But smoking is not always easy for them. They do not smoke these in front of parents and elders. When they are at school and college, they are very conscious about teachers. But when their teachers come, they hide their cigarettes immediately. Even, if there is a senior person who knows about their smoking, they do not smoke cigarettes in front of him. But if that person permits them to smoke or give them pieces of cigarettes, they smoke in front of him or with him. In this case, they are very conscious so that no other senior people see them.

It is true about the smoker college students of the research field that they many of them do not do any job and that's why they do not earn money. When they need money for the purpose of smoking, they want money from their parents but they tell a lie to them. It is duty of male members of family to go to market to buy things family needs. The male children who smoke cigarettes hide the accurate price of product and save money in order to buy cigarettes. But there are some who earn money but tuition and wage labor. There is tradition in many places of Rajshahi district of Bangladesh that, while hiring laborers, they generally contract to give 350 tk., 1 kg. rice, meal for 1 time and 1 pack of *biri*. The laborers also get times to have a smoke

during work time. Agro wage-laborers make contracts to have cigarettes and they take it in their leisure time. But when it is the volunteer labor asked by a village member, the hirers of labor give only 1 meal and cigarettes. They offer a cup of tea and one piece of cigarette to friends of same age who help.

When any of their friends come to their village for a certain time, they offer them a cup of tea and cigarettes since it is thought as respect for the friend. They are also treated by them in the same way when they meet their friends in their village. It is cricket and football game on tv which make them bid on which team will win. The losers of bid are to offer the others cigarettes. Generally, these cigarettes are of higher price. None of the friend group claim anything except cigarettes since they all know every one's economic capabilities. The loser also believes that their friend will claim nothing but cigarette of high brand and a cup of tea each.

The smoker college students of research field face economic problem when the price of cigarettes increases. They take the cigarettes of low price instead of that of high price. But when their money is very little to afford cigarettes, they buy *biris* since it is cheaper than cigarettes. When it is about the end of the month, they are seen to share a single piece of cigarette with their friends. When there is no work in this locality, they share cigarettes with their friends too. When the price of cigarettes increases, the teenage smokers get angry and disappointed, since many of them are one of the non-earner groups. But they can adapt to new system soon. Furthermore, they share single cigarettes with their friends and thus they take the same cigarette. But when it is the first days of months, they buy the cigarettes of high price since their parents send them money.

It is also seen among them that when they have less money to afford cigarettes, they request the shopkeepers to give them cigarettes in *baki*, and they make contract with them that they will give them the money when they get money. They give money back when they get money according to their contract. But these young students generally do not participate in *Halkhata*, because it creates a chance of being caught by other family members since the shopkeepers give *Halkhata cards* to every customer.

DISCUSSION

Smoking, though thought as a 'bad habit' almost in every culture, has a social construction. There are not only economic or mental issues but also many social, cultural, religious, family, age, academic educational and gender issues related with smoking.

It is true about smoking that students with smoker parents, siblings and peer have greater possibilities of becoming smoker than the students with non-smoker parents, siblings and peer (Hossain, Hossain, Azad-uz-zaman & Rahman, 2015; Tyas & Pederson, 1998; WBB Trust, 2009). Children of Bangladesh can know more about from family and society than its advertisement on media since tobacco advertising on television and radio, in local magazines and newspapers and on billboards is forbidden in Bangladesh (Barkat *et al.*, 2012). The college students of the research field have been seeing their elders and family guests smoking since their childhood, which made sense of smoking. Many college students who smoke are from the families where there their elder brothers smoke. Moreover, there are some college students whose father smokes cigarettes and *biris*. Besides this, when they were school students, they saw many of their teachers to smoke in tea shops and even in school campus. Being indirectly inspired by family members and teachers, many college students of the research field started to

smoke cigarettes in their early age. Significantly, elders' smoking habit indirectly inspire their students to smoke (Rahman, Karim, Ahmad, Suhaili & Ahmad, 2011) and for this reason, the majority of smokers learnt smoking in their early age (Kamruzzam, Hossain & Kabir, 2021).

Again, smoking habit of college students has a strong relation with changes in family structure. It is current tendency that joint family is decreasing and single/nuclear family is increasing because of expansion of educational and employment opportunities, economic and political empowerment of family members, social awareness, science and technology, urbanization and industrialization (Samad, 2015). Both the parents pass all the time outside the home in order to earn money, which results in the lack of care of the children (Boruah, 2017; Samad, 2015). This lonely family environment creates a possibility of making friendship among same age children. In this kind of situation, children fall in a risk of being habituated to smoking. In this case, the college students who spend more time socializing with friends, were drinkers, and valued participation in the arts are in the risk of social smoking (Moran, Wechsler & Rigotti, 2004). Even, in the research field, it is seen that the friendship among smoker college students is very strong and these students have been socialized together and have been playing, chatting and go to educational institutions since their childhood since their parents were busy earning money for family need.

Tradition is another thing, which play important roles in smoking; in the context of Bangladesh, tradition's role in smoking cannot be denied. It is traditional feature of villages of Bangladesh that people with wealth, lifestyle and formal education get prestige and play important role in rural social environment (Rahaman, 1999). Cigarette smoking is also thought as prestigious in village environment from long ago since it is a part of lifestyle of the people with much wealth. Some of the people of the research field are still proud of their ancestors who was one of the first 'cigarette smokers' instead of '*biri* smoker' of this locality. In the same way, people known to smoke cigarette few decades ago in spite of economic poverty and no formal education is also treated as extravagant in this research field. It is seen in the research field that people with higher education and wealth smoke cigarette. When some of the smoker friends of these smoker college students come to their village, they offer cigarette as a part of hospitality and respect. Interestingly, the family heads also offer *biri* or cigarettes to the family guests for the same reason. Murshid (2006) also found that it is a long-practiced tradition of rural Bangladesh to offer cigarette to guests as it is thought as hospitality, politeness and respect for the guests. It is true that people of all economic class are now smoking cigarette for its availability and being cheap. But those who are economically rich and got higher education smoke the cigarettes of comparatively high price. The college students reading in colleges away from home are from economically rich and formally educated families in most. Many of them are seen to smoke the cigarettes of high price when they come home in vacations. Smoking prevalence is also higher among them since they do not need to hide cigarettes in front of the elders and smoke in secrets in the town like village, which has made them more addicted to smoking. On the other hand, the local college students of the research field smoke the cigarette of comparatively high price when they are in the college campus or beside college, and the cigarette of comparatively low price when they are at their village in case their classmates see it and think them economically poor.

Another thing about smoking is that there are restrictions on smoking cigarette based on gender. Basically, tobacco use by gender varies based on countries, societies and ethnicities, and has a

complex association with culture (Hedmana, Bjerg-Bäcklunda, Perzanowskic, Sundberga, & Rönmarka, 2007), and determine smoking habit of a specific gender group. Girls are seen to smoke most in towns and cities rather than in rural areas since villages are more conservative than town. Basically, they have fewer opportunities to smoke due to cultural and social restrictions among females (Hossain *et al.*, 2017; Rahman, Roy & Sultana, 2015). In the research field, it is also expected that the female members of society will not smoke. Even, there is found no college reading girl to smoke cigarettes. Smoking, though thought as ‘bad habit’, can be culturally accepted if old male members of societies smoke. It is also expected in Bangladeshi societies that children and woman are refrain from smoking. Many people of rural area of Bangladesh cannot even think of women smoking cigarettes. For the same reason, there is found no college reading female students smoking cigarettes in the research field. On the other hand, it is rural area of Bangladesh where the old are thought to be respect and their advice is accepted as followable. Even, the old unknown and not from kin relative are also respected. Parents also teach their children to respect the elders. At the same time, patriarchal societies of Bangladesh have well establishment of male superiority over women (Murshid, 2006; Begum, Ali & Bhuyan, 2011). In this case, male old men get superiority in villages, which is well expressed by smoking culture in villages of Bangladesh. There is a tradition of not smoking in front of the elders in the villages of Bangladesh. So, when there is an old man in front of shops, the smoker college students do not smoke and even do not buy cigarettes. In spite of having no economic relation, they hide or throw cigarettes away when they meet well known old men in case elder members of society see them and treat them as bad boys and lessen the access of these students to their house and the old men may forbid their children to make company with them. Interestingly, college reading smokers order their juniors to buy cigarettes for them only because of being senior, and the juniors are expected to do according to their seniors, otherwise it will be impoliteness.

Though price rise of tobacco products is thought to be useful in reducing tobacco use among adolescents and college students in many countries (Ahammed, Ahmed & Uddin, 2021; Majumder & Shoma, 2019), this may not be well applicable in the rural area of Bangladesh. In spite of Bangladesh impose high tax on tobacco products (Barkat *et al.*, 2012) village people of all the classes are seen to smoke since they have many alternatives. It is true that the rise of tobacco products price always puts the smoker college students in different troubles. But the tobacco users of Bangladesh villages can easily cope with this condition. When price of cigarettes rises, the college students of the research field buy the cigarettes of low price instead of the higher prices one, and buy single tobacco sticks instead of whole packet. When they have less money, they buy *biri*. It is also contradicting to Rose & Chaloupka (2001), since they assert that the increased price of cigarette declines the numbers of its users who belongs to high school. As Bangladesh is a country where number of college students are rising in recent years because of high promotion rate from SSC to next class (Khan, Ebney & Haque, 2014) and their friendship bond is being more active, the friend circle of smoker college students help one another in smoking even in the situation when price of cigarettes rise. The smoker college students of the research field share cigarettes with one another when any of them does not have money. Besides this, they also inform the group when a senior person is about to come during smoking.

On the other hand, there is also a tradition of buying things in *baki* in rural areas of Bangladesh. The shopkeepers sell things in *baki* to the village people and people known to him. This kind of

transaction is based on interdependency and faith on social morality and ethics. For this reason, the college students who smoke can buy cigarettes despite having no money and pay money when they get money or earn. This belief is so strong that smoker college students buy cigarettes and *biri* from the shopkeepers without any hesitation because they know that the shopkeepers will not tell it to anybody.

Social environment of smoking of the research field also includes tea-stalls and grocer's shop. In the research field, there are 10 tea-stalls and 10 grocer's shop where cigarettes and *biris* are also found. Moreover, there are 10 grocer's shops and 10 tea-stalls beside the college campus. The college students who smoke cigarettes can easily buy cigarettes from these shops. It is not hyperbole that smoking related materials are easily available to children and adolescents in Bangladesh, which might encourage experimentation and the subsequent development of a regular smoking habit and ultimately addiction (Kamruzzam, Hossain & Kabir, 2021).

It is said that many of the tobacco users do not have knowledge about the effects of tobacco (Rahman, Roy & Sultana, 2015), which may be applicable only for the illiterate and not for the research field. There is readable health warning on tobacco packets (WBB Trust, 2009; Barkat *et al.*, 2012). Since these college students of research field are not illiterate, they can read the warning on cigarette and *biri* packets. Even their family members always forbade them to smoke because of its harmful effects on health and economy. But these college students ignore these warning. Majumder & Shoma (2019) also assert that people ignore the effects of smoking. Basically, the college reading smoker of the research field did not see any patient with cancer, heart attack and stroke, which makes them ignore the serious effects of smoking.

CONCLUSION

It is clear from above findings of the research that socio-cultural environment of villages in Bangladesh favorable to smoking because of tobacco products availability, similar alternatives, favorable smoking place, presence of smoker family members and peer, decline of joint families and lack of proper parental care for their children. Government's initiatives in reducing tobacco consumption by implying more tax on tobacco products fails because of peer internetwork, tobacco sharing and *baki* tradition in transaction. On the contrary, some social morals and tradition of villages of Bangladesh including identifying smoking as bad habit, not smoking in front of elders and social restrictions on female smoking sometimes plays important role in reducing smoking.

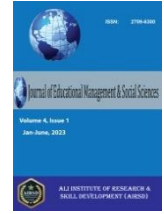
This research predicts that the Government's and Development agencies proper initiatives and smoking reducing socio-cultural values can help in building smoke-free college life and smoke-free Bangladesh.

REFERENCE:

- Action on Smoking and Health (July 2019). *ASH Fact sheet: Tobacco and the Developing World*. Action on Smoking and Health. <http://ash.org.uk/category/information-and-resources/>
- Barkat *et al.*, (2012). *The Economics of Tobacco and Tobacco Taxation in Bangladesh*. Paris: International Union Against Tuberculosis and Lung Disease.

- Begum, S., Ali, O. & Bhuyan, H.R. (2011). *Integration of population and gender concerns into the national and sectoral policies and programmes: current status and constraints*. Research Report No. 184. Dhaka: The Bangladesh Institute of Development Studies.
- Boruah, P.J. (2017). Degradation of moral values among young generation in India: an emerging issue. *Journal of Emerging Technologies and Innovative Research*, 4(12). Retrieved from www.jetir.org
- Efroymson *et al.* (2001). Hungry for tobacco: an analysis of the economic impact of tobacco consumption on the poor in Bangladesh. *Tobacco Control*, 10, 212–217.
- Efroymson, D. & Ahmed, S. (2003). Building Momentum for Tobacco Control: The Case of Bangladesh. *Tobacco Control Policy: Strategies, Successes, and Setbacks*. [ARCHIV WAVERL no. 118483]. Published jointly by WB and IDRC.
- Hassan, M.S., Hossain, Md.K. & Khan, H.T.A., (2019). Prevalence and predictors of tobacco smoking among university students in Sylhet Division. *Bangladesh. Int Health*, 11, 306–313. Doi:10.1093/inthealth/ihy091
- Hedmana, L., Bjerg-Bäcklunda, A., Perzanowskic, M., Sundberga, S. & Rönmarka, E. (2007). Factors related to tobacco use among teenagers. *Respiratory Medicine*, 101, 496–502. Doi: 10.1016/j.rmed.2006.07.001
- Hossain *et al.* (2017). Prevalence of tobacco smoking and factors associated with the initiation of smoking among university students in Dhaka, Bangladesh. *Central Asian Journal of Global Health*, 6(1). Doi: 10.5195/cajgh.2017.244
- Hossain, A., Hossain, Q.Z., Azad-uz-zaman, Q. & Rahman, F. (2015). Factors Influencing Teenager to Initiate Smoking in South-west Bangladesh. *Universal Journal of Public Health*, 3(6), 241-250. Doi: 10.13189/ujph.2015.030603
- Kamruzzam, Md., Hossain, A. & Kabir, E. (2021). Smoker's characteristics, general health and their perception of smoking in the social environment: a study of smokers in Rajshahi City, Bangladesh. *Journal of Public Health: From Theory to Practice*. <https://doi.org/10.1007/s10389-020-01413-w>
- Khan, M.M., Karim, M.R., Alam, M.S., Ali, M.M. & Masud, J.H.B. (2018). Prevalence and Determinants of Smoking Among Adolescent Boys in Dhaka City. *AKMMC J*, 9(1), 34-38
- Khan, Md. N.U.R., Ebney A. & Haque, R., (2014). Reforming the education system in Bangladesh: reckoning a knowledge-based society. *World Journal of Education: Sciedu Press*, available at www.sciedu.ca/wje
- Lalithambigai, G., Rao, R., Rajesh, R., Ramya, S. & Pai, B.H.M., (2016). Predictors of Cigarette Smoking by Young Adults in Mangalore, India. *Asian Pacific Journal of Cancer Prevention*, 17(1), 45-50. Doi: <http://dx.doi.org/10.7314/APJCP.2016.17.1.45>
- Majumder, S. & Shoma, S.P. (2019). Smoking Behavior among Bangladeshi Young Adults: Insights from a Smoking Survey of University Students in Dhaka City. *International Journal of Current Research and Review*, 11(6). DOI: <http://dx.doi.org/10.31782/IJCRR.2019.11161>
- Moran, S., Wechsler, H. & Rigotti, N.A. (2004). Social smoking among US college students. *Pediatrics*, 114(4). Doi: 10.1542/peds.2003-0558-L

- Murshid, G. (2006). *Hajar bachhorer bangla samskriti*. Dhaka: Abosar.
- Naing, N.N., Ahmad, Z., Musa, R., Hamid, F.R.A., Ghazali, H. & Abu Bakar M.H. (2014). Factors Related to Smoking Habits of Male Adolescents. *TOBACCO INDUCED DISEASES*, 2(3), 133-140
- Rahamen, S.M.Z. (1999). *Bangladesher grameen gnatitya*. Rajshahi: Department of Sociology, University of Rajshahi.
- Rahman, M., Karim, J., Ahmad, Sk. A., Suhaili, M.R. & Ahmad, S.N.W. (2011). Prevalence and Determinants of Smoking Behaviour among the Secondary School Teachers in Bangladesh. *International Journal of Public Health Research Special Issue*, pp (25-32)
- Rahman, T., Roy, D.C. & Sultana, P. (2015). Knowledge and attitude towards tobacco use in Bangladesh. *Journal of the Institute of Bangladesh Studies*, 38.
- Rose, H. & Chaloupka, F.J., (2001). The effects of cigarette prices on youth smoking. Research Paper Series, no 7. *ImpacTeen*.
- Samad, M., (2015). Marriage in changing family patterns in Bangladesh: the present trends. *International Journal of Social Work and Human Service Practice*. Horizon Research Publishing, 3(4),155-161
- Semba, R.D., Kalm, L.M., Pee, S. de., Ricks, M.O., Sari, M., & Bloem, M.W., (2007). Paternal smoking is associated with increased risk of child malnutrition among poor urban families in Indonesia. *Public Health Nutrition*, 10(1), 7–15. Doi: 10.1017/S136898000722292X.
- Song & Ling, (2011). Social Smoking Among Young Adults: Investigation of Intentions and Attempts to Quit. *American Journal of Public Health*, 101(7).
- Tyas, S.L. & Pederson, L.L. (1998). Psychological factors related to adolescent smoking: a critical review of the literature. *Tobacco Control*, 7, 409–420. Retrieved from <http://tobaccocontrol.bmj.com/>.
- U.S. Department of Health and Human Services, (2010). *A Report of the Surgeon General: How Tobacco Smoke Causes Disease: What It Means to You*. U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health.
- WBB Trust, (2009). *People's perceptions about pictorial health warnings on tobacco products*. Dhaka: WBB Trust.
- WHO, (2018). *Fact Sheet 2018: Bangladesh*. Regional Office of South-East Asia: World Health Organization.



Unpacking Delimitation of Constituencies in Pakistan under Election Laws

Farqaleet Khokhar¹

¹ University Gillani Law College, Bahauddin Zakariya University, Pakistan Email:

ARTICLE INFO

ABSTRACT

Article History:

Received:	March	25, 2023
Revised:	April	30, 2023
Accepted:	May	25, 2023
Available Online:	June	30, 2023

This article critically inspects the Election Laws in Pakistan in the context of the Delimitation of Constituencies. To this end, this article unpacks the Pakistani perspective on Delimitation and scrutinizes the principles of delimitations and how it is polluted due to gerrymandering. This article also examines the role of the election commission and highlights the requirement of the census before delimitation.

Keywords:

Delimitation of Constituencies, Gerrymandering, Election Commission of Pakistan, Jurisdictional Bar



© 2023 The Authors, Published by AIRSD. This is an Open Access Article under the Creative Common Attribution Non-Commercial 4.0

Corresponding Author's Email: farqaleet.khokhar@gmail.com

INTRODUCTION

The Delimitation of Constituencies Act 1974 is an old enactment of election law that specifically discusses delimitation. Recently, the Election Act 2017 (hereinafter 2017 Act) and the Election Rules 2017 (hereinafter 2017 Rules) provide brief laws and principles regarding elections in Pakistan. The significance of these laws in case of delimitation increases because they set the boundaries for the electoral districts. The change in such boundaries can be the cause of variation in the election results. This article unearths the canons of Election laws but deep perusal and

meticulous analysis of Pakistani courts' jurisprudence. After the investigation of all the judgments of Pakistani courts on the 2017 Act and 2017 Rules, this article at first instance provides a brief account of the various dimensions and principles of Election laws described, defined, and evolved by the courts. To this end, this research article has been divided into various segments. The second segment describes the concept of delimitation and how it is conducted in Pakistan. This segment also develops the significance of representation made to the Election Commission of Pakistan (hereinafter Commission) and provides whether the constitutional jurisdiction of the High Court can be invoked regarding issues related to delimitation. The third segment scrutinizes the role of the commission during delimitation. The fourth segment describes the principles of delimitation more specifically discusses the ten percent variation principle and relates it with the jurisprudence developed by the United Kingdom's courts and the democratic "one man, one vote" principle. The fifth segment is very important as it provides a detailed account of the debasement of voters and "gerrymandering" to pinpoint how delimitation can be utilised to benefit any individual by discriminating others. In the sixth segment, the article inspects the concept of the census to highlight how the delimitation of 2022 does not rest well with the 2017 Act. In the end, this whole discussion culminates in a reasonable and justified conclusion.

Delimitation of Constituencies

Delimitation or *Halqa Bandi* is the process in which the total area of the country is divided into various smaller parts or units. Delimitation is done to divide the constituencies for the elections of the provincial as well as the national assemblies. The purpose of delimitation is to conduct the elections in the country in a smooth and very efficient manner. It seems unmanageable to conduct the polls on the entire electoral territory as a single unit. It is highly subjective and led to impracticability as the whole country is a big entity and its electoral territory cannot be treated as a single unit. Hence, delimitation is a privilege not only for the public but also for the dispensation of democracy and the promotion of democratic values (Chandra, 2000). None of any election laws or Pakistani courts has defined the term delimitation.

The enlightenment of the 2017 Rules practically describes the way of initialising the delimitation. Rule 10 (5) of the 2017 Rules elucidates that the delimitation must be initialised from the northern side of a district. Furthermore, the line proceeds in a zigzag clockwise direction. Delimitation must be as close as is realistic, feasible, achievable more specifically practicable to the quota (Rustom, 2018).

In *Muhammad Ibrahim Jatoi v Election Commission of Pakistan*, the petitioner alleged in the finalised delimitation subjected district was allocated three provincial assembly seats. The petitioner further asserted that the delimitation has not been initialised from the district's northern point. The petition was dismissed on the subjective ground that the commission is not very much bound to perform delimitation according to the laws. The court stated the legislature and the laws have given leeway to the commission. This decision of the double bench does not rest well with Rule (5) of the 2017 Rules as such rule has not provided any flexibility in its application (Muhammad, 2019).

None of the authorities has described what zigzag clockwise manners mean. Even none of the statutes including the 2017 Act and the 2017 Rules have described or defined this phrase. Zigzag is defined as a series of turns, directions, angles, variations, and alterations in any path (Merriam

Webster). Possibly this zigzag might be helpful in preserving the rights of the communities, regional ethnicities, and the group of identical castes that without cutting, dividing, or classifying such groups with straight lines the boundaries are allowed to be tilted in zigzag manners. As well as various physical features that are owned by different people to preserve such materials the boundary is allowed to be drawn in a zigzag manner to decrease the conflicts on such materials.

Section 21 of the 2017 Act authorises the commission that delimits the constituencies, the representations/proposal can be made to the commission. If the representation is considered by the commission then it can make the modifications, alterations, and amendments to the preliminary constituencies' lists that had been already published. After modification, the new document will be published in the official Gazette. However, the representation should be made thirty days after the already published preliminary constituencies list.

At the preliminary stages of the delimitation, any voter can provide suggestions and can forward a proposal to the commission in the form of representations. The voter of the constituency is competent in making such suggestions. The commission is obliged to consider and decide the same in the light of the law. However, the person is not competent of claiming the vested right over what he has suggested should necessarily be accepted by the commission. Undoubtedly, it is a fundamental right of a person to take part in elections and the right to franchise however, to contest the same on the ground of delimitation at one's aspiration is highly subjective and is not permitted (Sardar, 2019).

As the commission is authorised to receive, consider and accept the representations. The question arises whether or not the commission has the power to dispose of various received representations on the delimitation of a constituency without making a separate order in each proposal. *Bahadur Ali and others v Election Commission of Pakistan* answers the aforementioned question that the commission in such cases when there is a very short time and many proposals have been forwarded for each district, the commission can give a consolidated order. The reason behind this judgment is that deciding on each proposal distinctly will consume more time and in a hurry, the commission might give conflicting orders for the same unit (Bahadur, 2018).

Section 236 of the 2017 Act bars the jurisdiction of courts expressly. Section 236 (3) says that the delimitation of the constituency done by the commission should not be questioned in any court of law. Undoubtedly, section 236 of the 2017 Act has barred the jurisdiction of courts but the question is whether this bar will be applied to the constitutional jurisdiction of the High Court. *Mir Shabbir Ali Khan Bijarini and others v Federation of Pakistan and others* evinces that the bar prescribed by section 236 of the 2017 Act cannot bar the constitutional jurisdiction of the High Court enshrined in Article 199 of the Constitution of Pakistan 1973. The court gave the reason that the 2017 Act is a sub-constitutional enactment and the provisions inscribed in it are also sub-constitutional and they have no power to bar either expressly or impliedly the jurisdictions of the higher courts as their jurisdictions have been awarded by the constitution to the superior courts. Furthermore, the court stated that it is the function of the High Courts to interpret the law, and the higher courts according to the circumstances of each case can decide and examine the nature of an ouster clause with acknowledgment of the "principles of consistency" (Mir, 2018).

In *Muhammad Saleem Khan and others v Election Commission of Pakistan*, the claimant argued that the commission has created ambiguity in the arrangements of union councils. The commission falsely and illegally subtracted a union council from one tehsil and added it to another tehsil. The court had checked the merit and in the views of the court, the commission had not violated basic and significant provisions of law during the process of delimitation and upheld that the constitutional jurisdiction of the High Court cannot be invoked for mere factual controversies (Muhammad, 2018). The court did not suggest the proper forum for the resolution of such mere factual controversies.

There is very limited shopping of the forum in cases of delimitation. *Rustom Ali v Election Commission of Pakistan* described that the aggrieved party at first instance has to get a remedy from the doorstep of the commission for any factual or substantial controversy and the aggrieved party can invoke the constitutional jurisdiction of the High Court against the order of the commission as well (Rustom, 2018). The court remained unsuccessful in describing in which circumstances the aggrieved party can directly invoke the constitutional jurisdiction of the higher courts.

Principles of Delimitation

The principles of delimitation have been enshrined in section 20 of the 2017 Act. Section 20 says:

“All constituencies for general seats shall, as far as practicable, be delimited having regard to the distribution of population in geographically compact areas, physical features, existing boundaries of administrative units, facilities of communication and public convenience and other cognate factors to ensure homogeneity in the creation of constituencies.”

Where there is no homogeneity there is a chance of discrimination. It is obligatory that homogeneity should be maintained during the process of delimitation. Delimitation is classification but this classification should be justified and reasonable and all the people of a constituency should be treated equally and should not be discriminated against on the basis of their color, creed, and caste (M.Q.M, 2014).

The Supreme Court of Pakistan in *Watan Party v Federation of Pakistan* (2011) stated that the commission has to show mastery while performing the process of delimitation. The court stated that delimitation should be done in such a manner that political polarization should be discouraged. Along with it, such delimitation should break the cycle of turf and ethnic conflicts. The Supreme Court even stated that the alteration should be made in the administrative units including the revenue estates and the police stations to destroy their hegemony. In this way, with such delimitation, harmony among the people can be promoted. People of the same class, creed, and mentality can share a peaceful environment with one another. As the Watan party case was discussing the matters and issues of Karachi, the court affirmed that the delimitation in Karachi should be done in that matter to convert Karachi into a peaceful city as this city is the economic hub and face of Pakistan. The court directed that all such measures should be taken by the commission on its behalf to flourish Pakistan and the Pakistani nation.

Section 20 of The Act 2017 describes the principles of delimitation. Clause (3) of section 20 while setting out a principle of 10% variation states: “As far as possible, variation in a population

of constituencies of an Assembly or a local government shall not ordinarily exceed ten percent.” This segment inspects the dimensions and the basis on which this principle has been based and draws a relationship and comparison between Pakistani and United States Principles.

Delimitation is the name of dividing constituencies into equal populations. However, there is always a margin and variation of 10 percent. The variation in the population must not exceed 10 percent (Mir, 2018). However, if such variation occurs or exceeds the fixed ratio then the delimitation committees have to describe the logical reasons and reasonable justifications for happening of such extraordinarily exceptional circumstances due to which exceeding the fixed limit happened and the commission has to reduce reasons such in writing (Sardar, 2019).

Sue Evenwel a landmark case, describes a very famous democratic doctrine that is “one person, one vote.” *Evenwel's case* while authenticating the existence of this doctrine in Pakistan considers it a ground of fundamental democracy. *Evenwel's case* relied on a very famous amendment in the Constitution of the United States that is known as the “Equal Protection Clause of the Fourteenth Amendment.” The amendment stated that the representational equality principle should not be violated while drawing the legislative districts. *Evenwel's case* elucidated that this representational equality principle is the base of section 20 clause (3) in which there is a flexibility of 10% (*Sue Evenwel*, 2015). However, the 10% variation in the representational equality principle is added by the Pakistani court although such variation is not part of the Equal Protection Clause of the Fourteenth Amendment.

The variations in congressional districts should be bonafide and should show good faith and the purpose behind it should be the accomplishment of the exact mathematical equality. Hence, if the variation has been made in reapportioning the congressional districts, to give this variation a constitutional look, there must be a logical and justified justification with reasoning. *Kirkpatrick v. Preisler* can be cited in this regard. However, *Wesberry v Sanders* states that it is impossible to achieve exact mathematical equality. The court further describes that it is impossible to draw the district satisfying the mathematical computation otherwise, there is no reason to subjectively disturb the constitutional clause ‘equal representation for the equal people.’

In *Reynolds v. Sims*, the court stated that it is the very essential condition of the Equal Protection Clause that a truthful effort be made while the construction of legislative districts into an equal population. Practical and objective approaches should be utilised and it is the responsibility of the state to ensure good faith and truthfulness while the performance of such hectic tasks. The court realised that it is very difficult to construct a district that contains an equal number of citizenry and voters as it is impossible to make the mathematical accuracy and exactness as to the constitutional requirement.

Although 10% is a high percentage for variation. However, this variation should not be utilised for the debasement of the voter. As well as the “one man, one vote” doctrine should also not be practically and realistically violated. In this way, it is submitted to eradicate any ambiguities and to fulfill the exigency the legislature of Pakistan has added a 10% variation principle among the principles of delimitation. These can be called permissible limits in the Election Laws of Pakistan. However, the Election Commission of Pakistan should have to be a keen observer when the variation has been exceeded as much increase in variation may preserve gerrymandering in it.

Gerrymandering

Delimitation has great significance and has a very important effect on elections hence, this process should be performed with great effort and care although it is a hectic activity. *M.Q.M and others v Province of Sindh* have become a landmark to discuss the concept of “Gerrymandering.” The Karachi High Court stated that:

“Gerrymandering was a practice in the process of setting electoral districts that attempted to establish a political advantage for a particular party or group by manipulating district boundaries to create partisan advantaged districts. Resulting district was known as a "gerrymander", however, said word could also refer to such a process. When used to allege that a given party was gaining disproportionate power, the term "gerrymandering" had negative connotations.”

Karachi High Court had shed light on the concept of redistribution of an unbalanced population at the district level. The court held that gerrymandering promotes an unbalanced, unstable, and discriminatory delimitation (M.Q.M, 2014). However, the word gerrymandering has not been defined in any statute and the same has been always subjected to the subjective approach utilised by Pakistani courts. Therefore, it will remain difficult to describe delimitation within the scope of gerrymandering on specific grounds.

Gerrymandering is discrimination and is a violation of fundamental rights. Particularly gerrymandering does not rest well Article 25 of the 1973 Constitution says:

- “(1) All citizens are equal before law and are entitled to equal protection of law.
- (2) There shall be no discrimination on the basis of sex.
- (3) Nothing in this Article shall prevent the State from making any special provision for the protection of women and children.”

Gerrymandering is an adverse distinction and unfavorable bias against a specific group, caste, or individual. It benefits one and violates the rights of the other by discriminating against him.

In *Rustam Ali and others v Election Commission of Pakistan and others*, the court stated that the debasement is undoubtedly a violation of the rights of an individual. The “Principle of one man, one vote” is violated due to debasement. The court defined debasement as the process of decreasing the quality and transparency of something by degradation (Rustam, 2018). Hence when section 20 (3) of the 2017 Act is read with Article 51 (5) of the Constitution, the principle of one man, one vote is preserved. Hence, by gerrymandering and debasement, the population uniformity is disturbed as well as it establishes the unjustified disparity. Consequently, it disturbs the whole election. Honest and fair elections are not conducted.

Function of Election Commission of Pakistan

Article 218 of the Constitution of Pakistan 1973 (hereinafter 1973 Constitution) constitutes the Election Commission of Pakistan with an aim to create a watchdog on the elections and their ancillary purposes.

The Supreme Court of Pakistan in *Workers' Party Pakistan v. Federation of Pakistan* has elaborated function and role of the Commission during the elections. The Supreme Court has

stated that the commission is obliged by the 1973 constitution to perform all the tasks of the election on the basis of good faith and by maintaining the highest standard. The Commission has to work according to law and norms. The commission is responsible for conducting the elections fairly as well as the commission has to make all the arrangements for conducting the elections before the day of the elections. The requirements that needed to be fulfilled on the day of elections would also be supervised and fulfilled by the commission. The court affirmed that the commission should work by maintaining fairness, free from corruption and illegal practices (Workers, 2012).

One of the tasks of the Commission is to finalise the delimitation of national and provincial constituencies (Raza, 2018). In light of the 2017 Act, the Commission is bound by law to start the delimitation process and procedure. There are some basic requirements that are needed to be fulfilled before the start of delimitation; firstly, delimitation can be started after every census. Secondly, all the processes and the procedure of the delimitation must be done four months before the scheduled day of the polling.

The commission has to conduct elections on time and the delay is unbearable. Any inference in the processing of the election at the delayed stage can be the prominent cause for the delay in the election and it would be considered as the interruption in the procedure and processing of the election (Abdul, 1989). That is why in *Ghulam Mustafa v. Commissioner/Delimitation Authority, D.G. Khan*, the court dismissed the interference of the petitioner in the union council's process of delimitation on the ground that the schedule of the elections had already been announced as well as the delimitation process had been completed and finalized. The decision of the court sits well with section 10-A of the Punjab Local Government Act 2013 which says that the court of law or any other authority is not capable of reviewing or making corrections to the Union Council or ward's delimitation after the schedule of the election has been notified. For a particular purpose, if there is a need to challenge the Union Council or ward's delimitation the aggrieved party has to come timely to the proper forum before the announcement of the elections (Ghulam, 2014).

Census

This segment describes the concept of the census and relates it to Election Laws and highlights the requirement of a fresh census for fresh delimitation. First of all, there is a need to define the term census as none of the election laws define it.

Census is the counting of the population that includes gathering, assembling, analysing, calculating, estimating, publishing, and disseminating the statistical records related to the population and their geographical location. The census can be done either by De facto or by De jure methods. De facto describes the listing of the people who were found in the census. The limitation of the De facto way is that it does not regard the normal residence of the person and only adds the people who were present at the time of the census. While the De jure method lists the person according to their residence. The limitation of this method is that on the day of the census and at the time of the census the existence of the listed person is not necessary.

In Pakistan, the first census took place after its independence in 1951 while the second was held after 10 years in 1961. Likewise in 1972, the third census took place and the delay of one year happened due to an unstable political environment. The fourth and fifth census was held in 1981 and 1998 respectively. After the passage of nineteen years, in 2017, another census was held in

Pakistan. That is a horrible fact as such delay cannot be expected in the postmodern 21st century. The census has shown overpopulation in Pakistan. The total population of Pakistan was 213,222,917. There was a huge increase in population between 1998 and 2017. The population crossed all the estimated limits.

Section 17 of the 2017 Act says that it is the responsibility of the commission to initialise the process of the delimitation of the constituency after the official publication of the census in the Gazette. Section 17 (2) reads: *“The Commission shall delimit constituencies after every census officially published.”*

There is a need for interpretation of the term “every census.” Does this phrase elucidate the commencement of fresh census, modified or altered census, upgraded census, or any other census? Once a census has been done, it is called a final census. When the census will be held, it will be called a fresh or new census. It will not be called the modified or altered census. Hence, the meaning of the phrase every census shows that delimitation has to be done after the commencement of every fresh census.

Consequently, section 17 requires that there should be the commencement of a fresh census and it should be officially published. The requirement of section 17 is not fulfilled just on mere publication of census in the official gazette but it also requires the occurrence of a fresh census, then the process of delimitation is allowed to be started.

The sixth census was held in 2017 by the Pakistan Bureau of Statistics and has been published in the official gazette. On the basis of the sixth census, the delimitation was done by the commission in 2018 for the general elections of 2018 and fulfilled the requirement of section 17(2) of the 2017 Act. The delimitation of 2018 can only be utilised by the 2018 elections and its subsequent by-elections. In April 2022 the commission initialised the process of new delimitation of constituencies as well as the commission published the preliminary report of 2022 delimitation on May 31 in the light of section 21 of the 2017 Act (Anfrel, 2022).

The question is whether or not the publication of the preliminary report 2022 fulfills the requirement of section 17(2) of the 2017 Act. The delimitation of 2022 has been done by the commission without conducting a fresh census and without publication of it in the official Gazette as well. Meanwhile, the commission had relied on the census of 2017 to delimit the constituencies in 2022 which does not rest well with the criteria set by section 17(2) of the 2017 Act.

It is submitted that rather than delimiting the constituencies again in 2022 which requires the commencement of a new census and its publication in the Gazette, the election of 2023 should be conducted on the basis of 2018 delimited constituencies. There are two grounds for that; firstly, in the past, the census had been consecutively done after a ten years gap. There will be a minute change in population in the period of four or five years and if a new census occurs in 2022 there will not be any massive change in population in comparison with the figures of the 2017 census. Secondly, Pakistan is facing a financial debacle so at that stage, it will be useless to utilise a huge amount of finance on the census.

CONCLUSION

There is no cavil to the proposition that the delimitation process is termed to be the sacred most for the process. However, it loses its efficacy if politically polluted. Thus, it is the prime responsibility of the commission to perform its process of delimitation in such a manner that it not only adheres to the provisions of the 2017 Act but also protects the rights of the voters being affected by such delimitation. Failure in doing so, would not only infringe on the rights of the voters but also discomfort the democratic system protected under the supreme law that is the 1973 Constitution. From another angle, if the power of the commission is concluded with this then a great mandate is placed upon the shoulders of the commission which cannot be overlooked on the basis of whims and caprices of “persons in power” in an arbitrary manner. The 2017 Act is an appreciable work and is a complete code if interpreted to protect the rights of the voter and to encourage democracy in Pakistan. Inflexible interpretation of such a piece is neither the intention of the legislature nor the spirit of the law of Election.

REFERENCES:

- Abdul Qadir Patel v. Chief Election Commissioner 2013 CLC 1712; Haji Muhammad Saifullah Khan case PLD 1989 S.C. 166
- Anfrel (2022), Fafen’s Review of Preliminary Report of the Delimitation and List of Constituencies for National and Provincial Assemblies. <https://anfrel.org/wp-content/uploads/2022/06/FAFEN-Analysis-of-Preliminary-Report-on-Delimitation-Final.pdf>
- Bahadur Ali and others v Election Commission of Pakistan through Secretary and others P L D 2018 Sindh 636
- Chandra Pal Singh, A century of constituency delimitation in India, Political Geography, Volume 19, Issue 4, 2000, Pp 517-532,ISSN 0962-6298,
- Ghulam Mustafa v. Commissioner /Delimitation Authority, D.G. Khan, reported in 2014 YLR 1583
- Kirkpatrick v. Preisler [394 US 526 (1969)]
- M.Q.M and others v Province of Sindh 2014 C L C 335
- Mir Shabbir Ali Khan Bijarini and others v Federation of Pakistan and others P L D 2018 Sindh 603
- Mir Shabbir Ali Khan Bijarini and others v Federation of Pakistan and others P L D 2018 Sindh 603; Sardar Muhammad Usman Almani and others v Election Commission of Pakistan and others P L D 2019 Sindh 43
- Muhammad Ibrahim Jatoi v Election Commission of Pakistan through Secretary and others 2019 C L C 1801
- Muhammad Saleem Khan and others v Election Commission of Pakistan through Secretary Election Commission of Pakistan and others 2018 CLC 1693
- Raza Muhammad Gorar and others v Election Commission of Pakistan through Chairman and others 2018 CLC 1777
- Reynolds v. Sims [377 US 533] (Reynolds case hereinafter)
- Rustam Ali and others v Election Commission of Pakistan and others C.P.NO.D-4131, 4132 & 4134 of 2018 (High Court of Sindh at Karachi)
- Sardar Muhammad Usman Almani and others v Election Commission of Pakistan and others P L D 2019 Sindh 43; Syed Tahir Hussain Shah and others v Election Commission of

Pakistan and others P L D 2018 Sindh 596; Raza Muhammad Gorar and others v Election Commission Of Pakistan through Chairman and others 2018 C L C 1777; Rustam Ali and others v Election Commission of Pakistan and others PLD 2018 Sindh 631
Sardar Muhammad Usman Almani and others v Election Commission of Pakistan and others P L D 2019 Sindh 43
Sue Evenwel 2015 SCMR 1152
Watan Party v Federation of Pakistan PLD 2011 Supreme Court 997 *Wesberry v Sanders* [376 US 1]
Workers' Party Pakistan v. Federation of Pakistan, PLD 2012 Supreme Court 681 Zigzag meaning in Merriam Webster <https://www.merriam-webster.com/dictionary/zigzag#synonyms>