that every one is made aware of this Act specially the illiterate women. So, that they will understand that there is something very powerful and strong to protect their interest and they can lead their lives peacefully but one must realise that even the law cannot help much unless and until the women themselves become strong mentally and defend themselves so that they can reap the benefits of this Act.

TREATISES ISSUE OF RATIFICATION UNDER THE CONSTITUTION ON INDIA

By

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Former Chairman Bar Council of India

Treaties are considered to be a sovereign function of any free nation. In fact no nation can live in isolation and therefore in some form or other they have to enter into treaty relationship with other nations. Every sovereign state has the power to enter into treaties.

Treaty is defined by Lord *MC Nair* in his Law of Treaties ***"a written agreement by which two or more states of international organizations intend to create a relationship between themselves operating within the sphere of international law".***

In fact Lord *Mc Nair* mentions that the making of treaties is one of the oldest and most characteristic exercise of independence and sovereignty on the part of the states. He refers to the observation of the Permanent Court of International Justice in the case of *Wimbledon* that the right of entering into international engagements is an attribute of State's Sovereignty and in an article published in 1958 he refers to the various facets of treaties and sovereignty. In the first place he says treaty making is an exercise of sovereign power and next he refers to the effect upon sovereignty of treaty obligations, the extent to which a state by virtue of its sovereignty is entitled to regulate a right exercisable upon its territory by another state in pursuance of a treaty between them. Then he refers of last issue as the question of relevance of sovereignty in the interpretation of treaties that is so called the rule of restrictive interpretation. Thus it is seen that treaty making has several facets and has its impact on the municipal law, its limitation on sovereignty and other related matters.

In fact treaties form the very basis and foundation of relations between Governments of different nations and govern the *inter se* relations between two sovereign states in case of bilateral treaties and in case of multilateral treaties between nations who are parties to the same. They create legal obligations, which are binding on contracting states. Since the dawn of civilization and organized Government and the growth of nations treaties have come into vogue governing relations between sovereign nations. There are innumerable number of treaties and in fact it is said that across the globe there are not less than 50000 treaties after the second world war according to Australian Governor – General Sir *N. Stephen* quoted by Mr. *P.M. Bakshi*, Former member of the Law Commission.

Apart from bilateral and multilateral treaties there are another class of agreements between nations which are called executive agreements. Executive agreements are often resorted to. For instance it is said that

agreement between Japan and USA relating to immigration was covered by a gentlemen's agreement for seventeen years from 1907. The Potsdam and the Yalta agreement during the Second World between the allies namely Great Britain, Russia, and America represented by *Winston Churchill, J. Stalin, Franklin. D. Roosevlt* respectively partake of the character executive agreements. For the enforcement of treaties some nations require that the treaty should be approved by the highest legislative body of the state whereas in some countries it is considered to be the prerogative of the executive. It is common knowledge that the treaties largely being relations between the nations pertain to the domain of foreign policy and therefore such policy is always dictated by the compulsions of the executive in office and as such considered to be the privilege of the Government in power and as such they may not require the endorsement or approval by the Supreme Legislative body of the nation.

The treaty making power under the Indian Constitution is governed by Articles 73 and 253 of the Constitution of India and by the Seventh Schedule entries 13, 14. Article 73 says that subject to the provision of the Constitution the executive power of the Union (the Union Government) extends to the exercise of rights, authority and jurisdiction which are exercisable by Government of India by virtue of any treaty or agreement and Article 253 days that notwithstanding anything contained in the Chapter dealing with distribution of powers between the Union and the State in matter of legislation, Parliament has power to make any law for the whole of the country for implementing any treaty or agreement or convention with any other country or countries or any decision made at any international conference or association or other body. In the Union list items 13 and 14 deal with participation in international conferences, associations and other bodies and the implementing of decisions made therein and entering into treaties and agreement with foreign countries and the implementing of treaties, agreements and conventions with foreign countries. Therefore one view propounded is that treaties of international conventions need not be ratified by Parliament. Another view is that as Article 253 speaks of the power of Parliament to make legislations for implementing treaty agreement or conventions or decisions made at international conference association or other body provides that Parliament can bring about legislation to implement treaties and international obligations, so as to bind even the State which are constituent units of the Union of India and that read with the power to legislate under List - 1 of the 7th schedule Item No.13 and 14 namely participating in conferences and entering into treaties with foreign countries empowers Parliament to enact legislation relating to the same. While these are enabling provisions to bring about legislation to implement the same they are not explicit in the sense that it is constitutionally mandates that the treaties or international conventions to which the India is a party should be ratified by the Parliament. So far as the conspectus is concerned the above mentioned provisions are the only provisions in the Constitution of India. With globalization becoming a reality and as no nation can live an isolation and as trade, commerce, human relations, human rights, trafficking in women and children, crime across the border, terrorism, extradition and as many international conventions are in place, treaties relating to nuclear test bombs, World Trade Organization have all an impact on a nation's life touching almost all aspects like economy, health, agriculture and are all pervasive in nature. The issue as to whether the treaty is required to be ratified by Parliament to be effective or they can be the cloistered preserve of executive requires to be examines.

For instance the unclear agreement recently concluded between the India and U.S.A. has great security concerns and India's own

right to develop its nuclear arsenal and its own policy relating to research and development and the use of nuclear energy in a variety of ways not confined only to defence requirements. The comprehensive nuclear test ban treaty is another major international agreement. Similarly the WTO touches trade and services, agriculture, intellectual property rights and therefore the effect of all these international agreements and treaties bring about a concession so far as the sovereignty of a nation state is concerned. In that view the issue of treaty making power assumes relevance and importance and therefore having set out the provisions in the Constitution of India it is relevant to look into provision obtaining in other Constitutions.

USA:

Article II Section (2), which defines the power of President in whom the executive power is vested, says that he shall have the power and by and with the consent of the senate to make treaties provided 2/3 rds of the senators present concur. Therefore any treaty entered into by the President with the advice and consent of the senate must be approved by 2/3rds of the senators present and all such treaties so approved by senate under Article VI (2) become the Supreme Law of the land and notwithstanding anything to the contrary in the Constitution they will bind the State and the Courts and it becomes the Supreme Law of the land as mentioned in Article VI (2). Therefore it is clear that under U.S. Constitution the treaties are to be made under the authority of the Untied States.

C. Herman Pritchett in his commentary on the American Constitution (3rd Edition) says that treaty power is subject to the Constitution and he quotes Justices *Black* in the judgment rendered in *Reid v. Covert*, 351US487 and he says that any doubt which was there that the treaty power is subject to Constitution is completely extinguished by the above judgment.

> "*There is nothing in the language which intimates that treaties and laws enacted pursuant to them do not have to comply which the provisions of the Constitution….it would be manifestly contrary to the objectives of those who created the Constitution, as well as those who were responsible for the bill of rights – let alone alien to our entire Constitutional history and tradition to construe Article VI as permitting the United States to exercise power under an international agreement without observing Constitutional prohibitions. In effect, such construction would permit amendment of that document in a manner not sanctioned by Article V*".

Another classic case *Missouri v. Holland*, 252 US 416, was the case of the migratory birds which dealt with the treaty that USA entered with Great Britain that dealt with the danger that arose out of extermination, birds in their annual migration between USA and Canada (at that time Canada was still a Colony ruled by the British) and some protective measures were agreed upon and they proposed to make legislation to make the treaty powers effective and U.S. Congress passed a law in 1918 prohibiting the Killing of the migratory birds except in accordance with the federal regulations.

Justice *Oliver Wendel Holmes* who delivered the leading judgment of the US Supreme Court held that the legislation and the treaty are not unConstitutional interference with the right of the State. The Court held that the State's rights in the presence of the birds was only temporary and they may be in another state for some days and they may be in a week thousands of miles away and he observed that it is "National interest of the first magnitude" and it can be protected by national action in concert with another power and he further observed that but for the treaty and the statute there would be no birds at all and the Judge in his inimitable style observed "that an effective means of protecting the national interest should not be frustrated by some invisible radiation from general terms of the tenth amendment". The tenth amendment reads as follows:

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." And he went further and said "it is not lightly to be assumed that, in matters requiring national action, 'a power which must belong to and somewhere reside in every civilized Government' is not to be found".

In this instance the authority was found in treaty power and he added that he did not mean to imply that there are no qualifications to the treaty making power and one such limitation he suggested would be explicit prohibitory works found in the Constitution. Ultimately it was mentioned that it is an inevitable consequence of the plenary nature of the federal power over foreign affairs and the division of powers between federal and State Governments relates only to internal affairs. *C. Herman Pritchett* observes that is a reflection of the complete incapacity of the states to deal with the foreign relations and it is only the Federal Government that has the authority to deal with all matters which are the legitimate concern of American Foreign Relations. It looks as though Article 253 of the Constitution of India while conferring this power on Parliament to legislate in respect of treaties will over ride the distribution of powers between the State and Centre and Centre is empowered to make such laws to give effect to treaties and international conventions notwithstanding that they touch a matter relating to the legislative power of the State. This is an adaptation of the U.S. Treaty making power doctrine. Since the senate has control over the treaties successive Presidents considering it as a limitation on the executive power of the State invariably appointed congressional leaders as members of the delegations to international conferences as also to the U.N.

C. Herman Pritchett quotes *John Hay* who stated *"a treaty entering into a Senate is like a bull going into an arena, no one can say how or when the final blow will fall, but one thing is certain it will never leave the arena alive".*

Even the great American first President *George Washington* went to the chamber of the Senate to present seven issues for the purpose of a treaty on which he wanted the advice and consent and the President was rebuffed and the matter was referred to a committee of five, thus President *Washington* could not get the senate's approval. Thereafter it is said that no American President ever went to the Senate to influence the ratification process (excerpted from *C. Herman Pritchett* American Constitution). Therefore a practice of resorting to executive agreements became the order of the day. It should be noted that the Treaty of Versailles of which President *Woodrow Wilson* was the architect was never ratified by the U.S. Senate. Even the C.T.B.T. met with a similar fate. There is a body of opinion in USA that a ratification by a majority vote of the two houses of congress would be preferable to the arrangement of Senate's ratification.

FRANCE (Constitution of 28 September 58 (5th republic)):

Under Article 52 the President is entitled to negotiate and ratify and 52(2) says he shall be informed of all negotiations leading to the conclusion of International agreement not subject to ratification. Article 53 which is titled "important treaties" such as peace treaties, commercial treaties, treaties of agreement relating to international organization or implied financial commitments or modifying a provisions of legislative nature or relating to status of person, cession, addition of territory may be ratified or approved only by an act of Parliament to be effective. So far as cession or exchange of territory is concerned it should have the consent of the population concerned.

UNITED KINGDOM:

U.K. while making of the treaty is an executive function if it requires the alteration

of domestic laws then legislation is required. But however it is mentioned that Parliament undertakes legislation to give effect to international conventions, Courts presume that Parliament intended to fulfil the international obligations and *P.M. Bakshi* says that the rule was qualified by the Court of Appeal in a Judgment Reported in 1967 (2) Queens Bench 116, that the rule is permissible where the terms of the legislation are not clear and are capable of more than one interpretation and there is cogent evidence that the enactment is intended to fulfill on obligation under a particular convention. The U.K. Courts have been implementing the International conventions relating to human rights while interpreting the British Domestic laws. India has been following suit in cases such as *Visakha* 1997 (6) SCC 241; *D.K. Babu*, 1997 (1) SCC 416 *M.V. Elizabeth*, AIR 1993 SC 1014, *Jolly Verghese v. Bank of Cochin*, AIR 1980 SC 470, *People Union of Civil Liberties*, (2005) 2 SCC 436, (2005) 5 SCC 363. While considering the effect of International conventions on domestic law the same will be elaborated further.

CONSTITUTION OF GERMANY:

Article 59 of the Constitution empowers the President to conclude treaties with foreign states on behalf of the federation and Article 59(2) says the treaties which regulate the political relations of the federation or relating to matter of federal legislation require the consent of the bodies competent in any specific case for such federal legislation. For administrative agreements the provision relating to federal agreements will apply.

ITALY:

Article 80 says that the chambers (Parliament) should authorize by law ratification of international treaties of political nature or which provide for arbitration or judicial regulation or imply modifications to the nation territory of financial burdens or to laws.

NETHERLANDS:

Netherlands Constitution under Articles 91 and 92 provide that the kingdom shall not be bound by treaties of treaties shall be denounced without prior approval of the Parliament. The cases which do not require approval shall be specified by an Act of Parliament and the manner of approval shall be laid down by an Act of Parliament. Any provision of a treaty which is in conflict with the Constitution or may lead to conflict should be approved by the Chamber of Parliament only if 2/3rds of the votes are cast in favour.

NORWAY:

Under Article 26 the King has the power to conclude and denounce conventions but under 26(2) treaties on matters of special importance and treaties whose implementation according to Constitution necessitate a new law or a decision of Parliament are not binding till the Parliament had given consent thereto.

SOUTH AFRICA:

Article 231 provides that national executive shall have the power of negotiating and signing international agreements and they bind the republic only if approved by the National Assembly and National Council of Provinces unless this agreement is covered by sub-section (3). Article 231 says International Agreement of technical, administrative or executive nature or which do not require ratification can be entered into national executive to bind the republic without approval but however it should be tabled in the National Assembly or a National Council of Provinces within a reasonable time. Article 231(4) provides that an international agreement becomes law when it is enacted into law by national legislation and a self executing provision of agreement approved by Parliament is law unless it is inconsistent with the Constitution or Act of the Parliament.

SWEDEN:

Chapter X deals with the International relations and it says that the Government can enter into an international agreement but it cannot go out without Parliament's approval if the agreement pre-supposes and amendment or abrogation of law or enactment of law or it concerns a matter which is for the Parliament to decide.

AUSTRALIA:

Under Article 61 treaty making is an executive power. Sri. *P.M. Bakshi* in his consultation paper refers to an assurance given by Prime Minister that he will be placing the treaties before both houses at least for twelve days whether ratification if required or not. He also refers to a statement of the foreign Minister made in 1996 which outlines a new treaty making process and says that it will be tabled at least 15 days after signature and before they are ratified for scrutiny by Parliament. The procedure according to Mr. *P.M. Bakshi* also has a process of a prior consultation with the state and further mentions that a joint standing committee on treaties was established comprising of members of both houses and consisting of federal and state office who would meet twice every year and consider treaties to be tabled.

The above Constitutions are referred to only to indicate that in many of the sovereign countries some form of ratification by the highest law making body is contemplated. The extract of the Constitutions of the various countries are taken from *MV Pylee* "Constitutions of the World". For treaty making provision in order Constitutions the book may be referred to.

THE INDIAN COURTS AND TREATIES:

In *Maganbhai Ishawarbhai Patel Etc v. Union of India*, 1970 (3) SCC 400 = AIR 1969 SC 783, a Constitution Bench of the Supreme Court laid the occasion to consider the issue relating to a boundary dispute between India and Pakistan which was submitted to arbitration. Strictly speaking the case did not relate to a treaty but to a boundary dispute which was decided by an arbitral tribunal and the Court held that it was not a case of cession of territory. It is needless to mention that a cession of territory requires Parliamentary approval. Learned Chief Justice *Hidayatullah* observed that different countries have different practices in regard to implementation of treaties and also awards in arbitration. The learned Chief Justice observes a treaty really concerns the political rather than the Judicial Wing. He finally concludes in para 35 that the Indian Constitution did not include any clear directions about treaties as is to be found in U.S.A. and French Constitutions and in para 29 he refers to Lord *Mc. Nair* who observed that the concurrence of the Parliament is required in U.K. except in very small number of cases. Justice *J.C. Shah,* who delivered a separate judgment, in para 50 observed that the Indian Constitution does not make any provision making legislation a condition for entering into an international treaty in times of war or peace and he observes that the making of law is necessary only when the treaty or agreement operates or restricts rights of the citizens or modifies the laws of the State and if the rights of the citizens or others which are justifiable are not affected, no legislative measure is required to give effect to the agreement or treaty. In para 77 he refers to Oppenheim on International Law, *Wade* and *Philip* on Constitutional law and says that according to *Wade* and *Philips* in U.K. (Paga 275) where treaties which for their execution and application in U.K. require some addition or alteration of existing law have to be incorporated in legislation. The Bombay High Court in a Judgment Reported in AIR 1994 Bombay 323, referred to the treaty making power and held that under Article 253 even if subjects are covered by the State List under the Constitution of India,

Parliament is entitled to make a treaty and even though it affects the rights of the State, still Papiamento is entitled to make law to implement the treaties and the latest view of the Supreme Court is to be found in *Union of India v Azadi Bachao Andolan and other*, (2004) 10 SCC 1, where they were considering an agreement between India and Mauritius dealing with avoidance of double taxation, observed in paras 18 and 19 that the power of entering into a treaty is an inherent part of Sovereign power of the State and Justice Sri *Krishna* observed that the Indian Constitution makes no provision for making legislation a condition for entry into an International treaty in times of war or peace and the executive is competent *qua* the State to represent the nation in all matters international and may by agreement, by convention or treaty incur obligation which in international law are binding upon the State and where the treaty or agreement restricts the rights of the citizens or modifies the law of the State then legislation will be required but if the rights of the citizens are not justiciable there is no need to make any legislation and the treaty binds the citizens.

In other words the case reported in (2004) 10 SCC 1, being by a Bench of Two Judges followed the Constitution Bench in *Manglabhai's* case (1970) 3 SCC 400. There are other cases referred to by *Gawtam Narasimhan* in an article published in the National Law School Journal (Volume 10) of the year 1998. While praising the remarkable work done of Sri. *S.K. Agarwal* and Sri. *P.C. Rao* (Secretary, Treaties Government of India) he refers to AIR 1980 Karn. 83, relating to two English cricketers and other cases relating to foreign nationals. However the view of the Supreme Court laid down in (1970) 3 SCC 400, concludes the issue that there is no specific provision for ratification of treaty in the Indian Constitution. But however the Court notes that where it affects the rights of a subject or other, even if it relates to an item included in the State List the Union can make law and it will be binding on State.

COURTS AND INTERNATIONAL CONVENTIONS :

In a series of decisions the Courts have applied the international conventions and applied them to the Municipal Law. Infact even *Kesavanand Bharati's* case recognizes that the Constitution has to be interpreted if not intractable in the light of U.N. Chapter AIR 1971 SC 1461. Infact in a large number of cases international conventions, universal declaration of human rights, declaration of civil and political rights, elimination of all forms of discrimination of women have all been incorporated in the Indian law by the Supreme Court. *Jolly Verghese v. Bank of Cochin*, 1980 (2) SCC 360. *Peoples Union of Civil Liberties v. Union of India*, AIR 1997 SC 568 = 1997 (2) ALD (SCSN) 39, wherein the Court observed that India being a signatory to the International Covenant on civil and political right and also declaration of Universal Declaration of Human Rights observed that so long as the International law and Conventions are not contrary to Municipal law they shall be deemed to be incorporated in the Domestic law.

In *M.V. Elizabeth*, AIR 1993 SC 1014, the Supreme Court applied the principles of Brussels Conventions relating to arrest of sea going ships. In *Visakha v. State of Rajasthan*, they have applied the Beijing Convention relating to the elimination of all forms of discrimination of all forms of discrimination against women. 1997 (6) SCC 241.

In *D.K. Babu's* case 1997 (1) SCC 416, the Court referred to various conventions and also relied on International convenant on civil and political rights under which the victim of unlawful arrest is entitled to compensation and noted that even though the Government of India made a specific reservation that Indian law does not recognize a right to compensation for victims of unlawful arrest

still they observed that the reservation has lost all its relevance, because the right to compensation was recognized in a large number of cases including *Nilavathi Behara*, 1993 (2) SCC 746. Thus the Courts have been applying the international convention even where India had reservations about the same. However recently a Three Judge Bench judgment of the Supreme Court in the *Peoples Union of Civil Liberties v. Union*, 2005 (5) SCC 563, observed that declarations or U.N. Resolutions cannot be exalted to the State of covenants or treaties and they do not cast any binding legal obligation and held that the Paris principles cannot override the provisions of Sections 3 and 4 of the Human Rights Act of 1993 and in a way did not affirm Justice *Sabarwal* in 2005 (2) SCC 436.

Therefore by and large the principles of international conventions have also been applied by Indian Courts. This being the position obtaining under the Indian Constitution and the law laid down by the Supreme Court whether still the Constitution requires an amendment arises for consideration particularly in the light of various treaties and international obligations under the W.T.O., Indo American Nuclear Agreement. The concerns of Indian farmers was articulated by Sri. *A.S. Babode* in the case reported in AIR 1994 Bom. 323, wherein the Dunkel proposals which affect the right of agriculturists, the irrigation facilities and marketing of raw cotton was raised. The W.T.O. affects trade and services, commerce, goods *etc.*, and has wide ranging ramifications. In the field of intellectual property rights, Patents Designs *etc.*, underdeveloped nations and developing nations suffer a great disadvantage. The draft agreement on trade related intellectual property rights evoked a lot of criticism. In fact even the committee of Government of India appointed to negotiate the agreement was obliged to bring the matter to the notice of Parliament. The Uruguay round of talks, the Doha round had all taken place amidst an atmosphere of doubt and dissent, reservations and wide ranging protest outside. Amendments to Patents Act by Parliament met with severe criticism. India had bitter experience in the protection of certain patents though legislative measures like Geographical indications of Goods registration and protection Act was passed as also the protection of Plant Varieties and Farmers Protection. Many Acts were passed. Still the multinationals with their huge financial reach are likely engulf the Indian enterprise. Recently India and America issued a joint declaration regarding the agricultural field and the exchange of knowledge and know-how. It is said that it covers "transgenic" methods, so that the seed improvement will increase the yield. B.T. cotton that was introduced had drawn a lot of flak. It is felt that the knowledge initiative package while appearing attractive will result in serious injury to Indian farmer. It is widely believed that even in the transgenic crop cultivation there are doubts and it is apprehended that it might be injurious to health and also affect the environment. There appears to be opposition even in America and the European Union. It is also felt that huge multinational like Monosanto will wipe out the Indian seed business and with the entry of the giant Wall Mart in the retail sector it will largely affect not only the small seller but also the big Indian business houses. Even insofar as the Nuclear Agreement is concerned several past heads of the Bhaba Atomic Energy Center expressed their reservations and security experts also indicated that several provisions will affect the programmes relating to enrichment of uranium and also impede the research and development of nuclear energy for being used in several ways for civilian purposes. Therefore among the public at large, the small farmers, the businessmen the scientists there are reservations and therefore in the context once again the issue whether such treaties can be concluded without Parliament debating the issue and whether these treaties promotes national interest required a serious

thought. Mr. *Bakshi* in his consultation paper referred to the three abortive attempts made in Parliament for making a Constitutional Amendment. He refers to the Bill moved by *George Fernandez* for amending Article 250 for ratification of treaties by both House of Parliament by not less than one 1/2 of the membership of each House and by a majority of Legislature of not less than half the States. The Bill had died with the dissolution of the Parliament.

Sri *Bakshi* also refers to a question put by Malviva a Member of Rajya Sabha whether Government was proposing any legislation to amend the Constitution to provide for Parliament's approval for international treaties and the Government replied that there was no such proposal. Sri *Bakshi* also refers to the Constitution Amendment Bill 1993 moved by *M.A. Baby* of Kerala that such treaties *etc*., including the borrowing from foreign countries *etc*., should be placed before the Parliament prior to implementation. That also met a similar fate so also the Bill moved by Mr. *Chitta Babu* of West Bengal a Member of the Parliament in 1994. Thus attempts to bring about legislation to seek amendments in the Constitution for ratification of treaties became exercises in futility. It is obvious that Parliament is not inclined to move the matter. One argument that is advanced is that some of these agreements like W.T.O. can only be implemented by making law in terms of agreement as provided under Entry 14 of List 1 read with Article 253 of the Constitution of the India. Another view of the Government is that the negotiations are carried out by experts and the negotiation teams consist of bureaucracy, peoples representatives and the experts in field and therefore the nation's interests are taken care of. They also say even so far as the nuclear treaty is concerned all interests are taken into consideration, the opposition leaders were taken into confidence, the security concerns were addressed and therefore there is no sell out of the national interest or a treaty like nuclear treaty does not compromise the sovereignty and security and safety of the nation's interest or a treaty like nuclear treaty does not compromise the sovereignty and security and safety of the nation or the use of nuclear energy for peaceful purposes. While there can be a healthy and meaningful debate in Parliament. Still when in many democracies in the world a process of ratification is in place, it is not understood why the power that be are not inclined to accept the position that amendment of Constitution to ratify treaties should not be agreed upon. It is no doubt true that in the Indian political context there is no bipartisan ship and on broad national issues there is no consensus and debate and issues are politicized still that is to be ratified. Issues affecting the economy, the national security certainly are of utmost national concern and not only affect the safety and security of the nation but also affect the economy of the country and even it may result in economic colonalisation and a freedom so dearly won should not be easily last. So far as executive agreements are concerned it may be that ratification may not be required infact regarding the avoidance of double taxation between that is advanced is in view of the fact that coalition Governments are the order of the day so secure unanimity in difficult and to get political mileage make every issue contentious and therefore ratification power is not desirable. While it is true that the Indian political scenario has changed the party structure is fragile, bipartisanship is unthinkable and that Government of the day should be trusted with protecting national interest still in view of the tremendous impact of globalization and the broad economic sweep of the multinationals and the power equations changing enormously with the collapse of the Soviet Block, economic domination and also security that to developing nations are not ill-founded misapprehensions but are rooted in the reality of the globalised world and therefore ratification of treaties particularly

those affecting the interest of national security and the economy at least should be subjected to scrutiny of Parliament and ratification by the Parliament.

(Text of the speech delivered at Banglore on 27-1-2007 at the National Conference on Treatises organized by Bar Council of India at Karnataka).

TRAINING OF PARA LEGAL VOLUNTEERS A STEP TOWARDS LEGAL EMPOWERMENT

By

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It was the best of times
It was the age of wisdom;
It was the epoch of belief;
It was the season of light;
It was the spring of hope;

It was the worst of times;
It was the age of foolishness;
It was the epoch of incredibility;
It was the season of darkness;
It was the winter of despair.

Charles Dickens.

This is the age of information super highway; *This is the age of crass ignorance.*

If there was only one man in the world, he would have lot of problems but none of them would be legal ones. Add a second inhabitant, and we have the possibility of conflict. Both of them try to pick the same apple from the same branch. The obvious solution is violence. It is not a very wise solution. If we employ it, our little world may shrink back down to one person or perhaps none. A better solution, one that all known human societies have evolved is a system of legal rules which are explicit or implicit and which are proclaimed by monarchs, or dictated by despots or legislated by people for themselves. One cannot imagine a society with no Government or rule of law. Everyone is governed by rule of law. One can violate and transgress such laws only on pain of censure and punishment. Knowledge of legal rules is a must.

2. There are things of which ignorance is bliss indeed. But ignorance of law is not only no excuse but also visits one with dreadful consequences. In the words of Hon'ble Justice *J.S. Varma*, former Chief Justice of India, "the presumption that everyone knows the law is a myth that causes needless suffering to millions of people in India especially those who are unlettered. Ignorance of the laws and the rights guaranteed by them facilitates blatant misuse of authority by law enforcers, whose job is to protect peoples' right". It is said that there is no jewel in the world comparable to learning and no learning so excellent as knowledge of laws. Legal Literacy is not about knowing every section of law but the basis of the law and its spirit. Literacy is the prime requisite even to know such rudiments of law. Apart from physical resources, a great deal of commitment is essential to bring about literacy. Since the fortunes of a political party thrive on illiteracy and ignorance of the masses, no political party would show any commitment to enhance literacy.