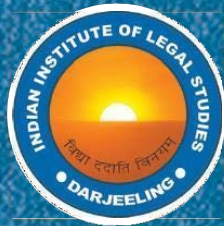


VOLUME VII

ISSUE-III (July-September 2021)



IILS QUEST

**A Quarterly Journal authored by IILS
Students. Published in the IILS Website**



VOLUME VII

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IILS QUEST

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in the IILS Website



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MESSAGE

FROM PRINCIPAL'S DESK



Big thanks to the student's editorial board of the journal IILS Quest and researchers for giving their valuable time. I believe this edition will enrich the reader's knowledge in many ways. I also would like to thank the students who, through various mediums, have presented their ideas, views, emotions and expressions. I believe they are going to be the flag bearers of legal fraternity in India.

I would also like to thank and congratulate to all the contributors of this edition.

I am sure, that the readers will be enhancing their knowledge base with this edition of IILS Quest.

Thank you

A handwritten signature in blue ink, consisting of a vertical stroke followed by a horizontal line and a wavy flourish.

Prof. (Dr.) Ganesh Ji Tiwari
Principal,
Indian Institute of Legal Studies

MESSAGE

FROM REGISTRAR'S DESK



“No thief, however skillful, can rob one of knowledge, and that is why knowledge is the best and safest treasure to acquire.”

L. Frank Baum

I am really very grateful to the student's editorial board of the journal IILS Quest and researchers for encouraging us to complete the journal which will help the readers in many ways. Every edition brings new challenges as well as new opportunities for the contributors.

I believe this journey of IILS Quest has been a cause of reflection, full of unlearning old habits and adopting new ones get journey was hard but today it feels as if it was worth it. I hope this opportunity not only helped the students to sharpen their minds but also to represent the principles of IILS.

I would also like to thank and congratulate to my fellow mates who helped in making this journal. It means a lot to all of us.

I am also positive that this journal will help us as a student in learning from various aspects. We will also validate to give our best to make this journal a grand success.

Thank you



Shri Sanjay Bhattacharjee

Registrar,

Indian Institute of Legal Studies

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ARTICLES



IMPACT OF OCEAN DUMPING IN INDIA: A LEGAL APPROACH



Sadiqua Alam

B.A. LL.B (H) Semester V

ABSTRACT

Anthropogenic contaminants mostly enter the marine environment through land-based sources, although they can also be expelled or re-mobilized within the marine environment. Oceans have been adversely affected by climate change and human activities such as oil spills, garbage dumping, and significant sea bed mining. The Indian judiciary has pushed for a fresh approach to environmental rights in the country. It expanded the meaning of Article 21 and the right to a clean environment has been included. However, it still remains disregarded in various aspects. This article probes into the aforementioned issue.

INTRODUCTION

The term environment has a very broad meaning, but basically it includes air, water, and land and signifies the interaction between various human activities, processes and the natural world. In India since the ancient times i.e., the Vedic period the human kind has strived to preserve the environment and establish coexistence between the environment and the numerous living things on earth.

Biodiversity or Biological diversity means the variability among all living organisms from all sources including, terrestrial, marine and other aquatic ecosystems. It is the variation within various species of plants, animals and micro-organisms and the ecosystems within which they inhabit and interact.

Previously, no heed was paid to the ill effects of waste disposal on the marine environment. Moreover, concepts of recycle and reusing materials were unfamiliar. Wastes were frequently discarded in coastal and ocean waters based on the assumption that marine waters have the capacity to mix and disperse waste sans bound.

Marine pollution directly affects both marine and terrestrial ecosystems. Thus, the numerous detrimental effects of diverse human activities on the environment must be well assessed, and various strategies to safeguard our environment must be evolved. Moreover, the said policies, rules and regulations also need to be adequately implemented and executed not just at international level but also at local and national

level.

Various international agreements and conventions must also be accepted by different countries around the world in order to make them a part of their legal systems. The active engagement of all countries throughout the world is crucial since adverse impacts on the environment do not only affect one nation or person in isolation, but have a profound impact on the entire globe and each human and life form inhabiting the earth in a variety of intricate ways.

ENVIRONMENT LAWS IN INDIA

The original constitution adopted did not contain any particular provision concerning the protection of environment. This could be because the makers did not really consider environmental pollution to be a potential issue.

Article 21 of the India Constitution deals with a person's right to live the way they want and that their life is more than just animal existence; it states that only according to the procedure established by law a person can be deprived of their right to life or personal liberty. The Indian Judiciary while deciding cases in relation to environment provided for a right to a clean environment as a fundamental right.

The scope of Article 21 has been expanded by the Supreme Court, which has interpreted that right of life is broad enough to mean the right to live a civilized life and it is also inclusive of the right to clean

environment.¹

In India after the Stockholm Conference in 1976, under the 42nd Amendment of the Constitution, Article 48-A and Article 51-A (g) were inserted in the Indian Constitution. Article 48-A, State has the obligation to safeguard the environment. It's part of Directive Principles of State Policy (DPSP), though not enforceable, but simultaneously it is a fundamental right under Article 21. Under Article 51-A (g) A it is a part of fundamental duty to protect the environment and its conservation.

LANDMARK JUDGEMENTS

MC MEHTA VS. UNION OF INDIA (KANPUR TANNERIES CASE)

Public interest litigation (P.I.L.) requested an order from the Supreme Court to forbid the tanneries near Kanpur city from exuding trade effluents into the river Ganga until they set up effluent treatment plants. Moreover, the Court ordered to stop the work in tanneries, which were discharging effluents into the river and lacked set up primary treatment plants discharge of untreated wastewater into the river.²

¹Pandya, F. A., & Bharad, B. H. (2019). A Study on Legal Aspects of Marine Environmental Protection in India.

²M.C. Mehta v Union of India, AIR 1988 SC 1037(India)

INDIAN COUNCIL FOR ENVIRO-LEGAL ACTION VS. UNION OF INDIA AND OTHERS

In the above case, it was purported that water in wells and streams in village Bichhri in Udaipur district in the State of Rajasthan had become improper for consumption due to disposal of untreated toxic sludge from an industrial complex located within the village. The Supreme Court held that the respondents were liable to pay compensation for the harm caused by them to the villagers in the affected as well as the surrounding areas.³

VELLORE CITIZENS WELFARE FORUM VS. UNION OF INDIA AND OTHERS

In this case The Supreme Court directed the constitution of an authority under the Environment Act to deal with the affairs created by the tanneries and other polluting industries in the State. The authority was also directed to make and implement scheme(s) for undoing ecological damage caused by pollution in the State.⁴

M.C. MEHTA VS. UNION OF INDIA (VEHICULAR POLLUTION CASE)

This case was about the severe pollution caused in Delhi due to vehicles. The Apex court in this case again confirmed the right to a healthy environment as a basic human right and said that the right to

³Indian Council for Enviro-Legal Action v Union of India and Others, AIR 1996 SC 1446(India)

⁴Vellore Citizens Welfare Forum v Union of India and Others, AIR 1996 SC 2715(India)

⁵M.C. Mehta v. Union of India, 1991 SCR (1)866,1991 SCC (2) 353(India)

clean air emanates from Art. 21.⁵

MURLI S. DEORA VS. UNION OF INDIA

In this case the Court banned smoking in public places for the protection of environment and human health.⁶

LAWS RELATING TO OCEAN DUMPING IN INDIA

The legislations, both central and state governments, primarily carry out the marine management in India. An assemblage of organizations and agencies, with overlapping jurisdiction of the central as well as the provincial governments, deal with the problem.⁷ India's geographical location in the Indian Ocean is indicative of its dependence on the sea for both prosperity and security.

Ocean degradation is caused mainly due to economic development issues in the oceans. It is imperative, therefore, to increase cooperation towards conservation and sustainable use of the oceans, seas and marine resources as outlined in the goal 14 of the Sustainable

⁶Murli S. Deora v. Union of India, 2001 Supp(4) SCR 650(India)

⁷ Bateman, S., Bates, S., Bergin, A., Navavichit, C., Djalal, H., Eichner, J., ... & Guangjian, X. (1998). Regional maritime management and security. Canberra: Strategic and Defence Studies Centre, Research School of Pacific and Asian Studies, Australian National University, 1998.

Development Goals (SDG).⁸ The major legislations which deal with marine pollution and ocean protection are discussed further.

The Water (Prevention and Control of Pollution) Act, 1974

Water (Prevention & Control of Pollution) Act, 1974 is a legislation that superintends agencies accountable for keeping a check on water pollution and pollution control boards both at the Centre and provincial levels. Under the Act, effluents cannot be released into water bodies and it is the responsibility of the state pollution control board to intervene and put an end to it. Anyone failing to abide by the laws mentioned shall be liable for imprisonment under Section 24⁹ & Section 43.

Indian National Centre for Ocean Information Services (Incois), 1999

This is an autonomous body governed by the Ministry of Earth Sciences (MoES). The main aim of this organization is to furnish ocean data, information and advisory services to society, industry, the government etc. through research.¹⁰

⁸Gupta, J. and Vegelin, C., 2016. Sustainable development goals and inclusive development. International environmental agreements: Politics, law and economics, 16(3), pp.433-448.

⁹Jain, S.N., 1984. Water (Prevention and Control of Pollution) Act 1974: Basic Legal Issues.

¹⁰Francis, P.A., Jithin, A.K., Effy, J.B., Chatterjee, A., Chakraborty, K., Paul, A., Balaji, B., Sheno, S.S.C., Biswamoy, P., Mukherjee, A. and Singh, P., 2020. High-resolution operational ocean forecast and reanalysis system for the Indian ocean. Bulletin of the American Meteorological Society, 101(8), pp.E1340-E1356.

Apart from these bodies and legislations, under the UN's Clean Seas Campaign, India launched a National Marine Litter Policy in 2018 to monitor plastic waste sliding into the ocean. The India-Norway Ocean Dialogue has decided to work closely on oceans maintenance, thus introduced the concept of 'Blue Economy.'

THE MAIN SOURCES OF MARINE POLLUTION IN INDIA

Pollution that is resulted by land-based activities:

According to various surveys and research, land-based activities are responsible for around 80% of marine pollution. Because hazardous compounds are carried by rivers or other water sources and eventually enter the ocean, hazardous land runoffs are constantly inflicting harm to the marine ecosystem.

Surface runoff emanating from agricultural farming, commercial activity near the coast causes diffusing of waste pesticides loaded with toxins into the water bodies. Many national and international laws have been enacted for the prevention of land-based pollution activities.

But it is saddening that till date these regulations have been given little or no attention.

Ocean Dumping and the danger of accumulation of plastic:

Dumping entails disposal of all kinds of wastes such as, waste from vessels, pharmaceutical and biomedical waste, radioactive, hazardous

waste, throwing of plastic into water bodies. Stringent laws and fine should be decided up by the people who have authority to address this issue of plastic accumulation.

Oil spillage and ships:

Various processes, such as tanker cleaning and removal of cargo residues, accidental collisions of ships or flooding of large tankers in the ocean cause marine pollution. A large amount of oil dumped into the sea, cause marine environmental pollution and result in deaths. Ships and boats can also cause noise pollution, which can interfere with and destroy life underwater.

Pollution from Atmosphere:

Atmospheric pollution includes heavily polluted air, dust and plastic bags to be channeled by the wind into water bodies. The consequences of climate change and air pollution have also caused tremendous damage to life on water and under water. One of the causes of global warming is the ozone layer's depletion which causes the UV rays to enter the earth.

Deep Sea floor Mining:

Minerals are mainly mined from the seafloor using conveyor belts or hydraulic pumps or buckets, and the minerals are brought to the surface for processing. Extracting minerals disturb the habitat of marine life. Sediments from mining affect underwater plants and coral reefs. Once mined, the remaining resource particles often float on the sea surface, and sometimes the crude oil also floats in the sea, which is difficult to

remove, thus causing great damage to the sea surface and marine ecology.

OCEAN DUMPING AND ITS CONSEQUENCES

Marine beings endure the brunt of the harmful effluents that is dumped in the ocean. The wastes which might be dumped into the oceans broadly speaking include poisonous materials, which soak in all of the oceanic oxygen. This results in a substantial depletion of oxygen and makes it difficult for the mammals and different fishes causing them to die of their herbal habitat.¹¹

According to annual records, around one million seabirds die due to ocean pollution. Waste assimilates with the water that causes various chemical processes including acid-base neutralization, dissolution of waste solids, and desorption, volatilization at the sea surface which consequently change the oxidation state and the one that settles at the seabed go through geochemical and biological activities.¹² All these ultimately results to a great imbalance to the marine ecosystem.

Besides, diverse non-public establishments are combating ocean dumping of their own. In the modern-day paper, the writer has attempted to address changing tendencies of legal guideline across the

¹¹Shamseer Mambra, Ocean Pollution: 6 things that make it worse, MARINE INSIGHT

¹²Niazi, T., 2016. Springer. AL Cases of Conflict: Transboundary Disputes and the Development of International Law. Toronto: University of Toronto Press. 2016. Journal of International and Global Studies, 8(1), pp.85-89.

And in India and has drawn a theoretical distinction among legal guidelines of different international locations and that of India.

MAJOR CHALLENGES TO COUNTERACT THE ISSUE IN INDIA

- India has been working untiringly so as the curb issue of ocean selling and a few of its important ways involve collaborations created with the developed countries like Federal Republic of Germany and Norway in 2019. There still persists a multitude of problems.
- The Territorial Waters, Continental Shelf, and other Maritime Zones Act, 1976 Act provides “exclusive jurisdiction to preserve and shield the marine surroundings and to stop and manage marine pollution.”¹³ There's no limit as to how much effluents and discharge of pollutants into the territorial waters is standard, continental shelf, EEZs or alternative Maritime Zones. The Act formulates no rules towards closing date for the improvement of such discharges before it exploits a wider space of such zones

¹³ The Territorial Waters, Continental Shelf, Exclusive Economic Zone And Other Maritime Zones Act, 1976

- In India, there is no law that specifically deals with the matter of ocean selling and marine pollution. There are numerous zones of water bodies which makes the reach of Ocean dumping terribly wide. the matter may be simply tackled under identical umbrella with one specific law for the regulation of Ocean Dumping, covering not simply water bodies, however conjointly territorial waters, Coastal Areas, EEZs, etc.,
- After we say Ocean Dumping, the primary issue that comes to our minds is dumping wastes into the ocean. However, the expression covers way more than simply its literal interpretation. Ocean dumping is broader than just dumping waste into the oceans; it additionally extends to different bodies of water like seas, coastal water bodies, and territorial waterways, so on. This downside of ambiguity in its definition makes it tough to work on the problem and propose solutions.
- Although the Constitution of India contains provisions to safeguard and improve the natural surroundings as well as forests, lakes, rivers, and life and to possess compassion for living creatures¹⁴, the events of global climate change are increasing in both frequency and intensity, and also the government's angle on the problem isn't that effective. The problem, being unnoted for an extended period of time, has

¹⁴Ahmad, D., 2019. The Indian Constitution and the Role of Indian Judiciary System in Protection of Environment in India. Available at SSRN 3375640.

created some major irreversible issues to the marine environment.

CONCLUSION AND RECOMMENDATIONS

The rise in the number of cases of ocean dumping has been on an increase and so as to attain a more robust place what's required is 'action, not mere words.' There are tons of native approaches that are addressing the matter of ocean dumping in their own little ways in an efficient manner. Since 2018, nearly 5,000 fishermen and boat homeowners in Kollam have been carrying back to land all the plastic that they get hold of while they're out at sea.

Another such example is initiated by a world company UCO Gear, under the guidance of Steven Reinhold who has worked upon towards a brand-new trend on social media. Plastic is a major supply of ocean waste, notably in India. The Indian government has additionally prohibited the utilization of eight single-use plastic products within the month of Nov 2019. The absence of a novel laws is India' biggest issue in terms of handling ocean pollution. It encourages people to use the hashtag #trashtag to come forward and clear up garbage close to beaches and different natural resources.

There should be a link between the functioning of the government and the functioning of other entities that work directly or indirectly toward an equivalent purpose. Environmental rules need not be restricted to the

scope of national government in today' world. Therefore, attain desirable results, the government, on the other hand, should construct an interconnected network incorporating native methods, public and personal operational agencies.

The Indian Judiciary beyond question has been operating in its best way. Establishing the connection between health and sustainability, the Supreme Court, within the case *M.C. Mehta v. Union of India* [¹⁵] has issued directions establish sewerage treatment plants in a very time-bound manner. Art 48A as a Directive Principle of State Policy (DPSP) directs the state 'to shield and improve the surroundings and to safeguard forests and life of the country.'¹⁶ Although these laws are being implemented, these organs have not put in their best efforts to conserve environment.¹⁷ Therefore, just judiciary cannot work entirely, and the three pillars have to work together to bring out the best for our environment.

¹⁵*M.C. Mehta v. Union of India*, (1997) 2 SCC 411.

¹⁶Article 51A(G) Constitution of India

¹⁷Bhasin, K., 2018. Environmental Governance in India: An inefficient outcome due to lack of "specialized" and strong institution?

THE NEED FOR GENDER NEUTRAL LAWS IN INDIA: WITH SPECIAL EMPHASIS ON MATRIMONIAL AND CRIMINAL LAWS



Parthiv Chakraborty

B.A. LL.B (H) Semester III

INTRODUCTION

The highest rate of suicide in the world is among men; according to a latest report, 84% of the hidden homeless people are men, people who engage in manual labour are mostly men and who die doing it are men too.¹ Despite these, the male gender is less likely to report abuses perpetuated against them. And yet, all across the globe, most laws governing rape, sexual assault and domestic violence is highly gendered, and that is, most of them

¹Mona Chalabi, *The other gender divide: where men are losing out*, The Guardian, 7 May, 2013.

fail to recognise male victims of such crimes and provide them with no remedy at all, thereby securing absolutely no justice for the victims. This is, in no way, an attempt to undermine the various victimisations women have to face all across the world and in India, in particular, but when half of the population have no means or access to justice, it no more remains an issue of gender rights only, but raises a question about human rights itself. The UN defines Human Rights as,

*“Human rights are rights inherent to all human beings, regardless of race, sex, nationality, ethnicity, language, religion, or any other status. Human rights include the right to life and liberty, freedom from slavery and torture, freedom of opinion and expression, the right to work and education, and many more. Everyone is entitled to these rights, without discrimination.”*²

There cannot be any morsel of doubt that women are victimised more than any other community. They often face discriminations at home and at the workplace, face violence, mistreated, taken advantage of, raped and trafficked. That, of course, mandates special codification of laws for women who need greater protection. But does that also mandate that men and other sexual minorities who face violence should be left out of this conversation and be given no protection at all? That approach is preposterous and must be rebuked till alteration.

²Universal Declaration of Human Rights, UNITED NATIONS (Aug 1, 2021, 12:00PM) <https://www.un.org/en/global-issues/human-rights>.

Article 14 of the Indian Constitution reads as under, “The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.” Yet laws treating different communities differently exist. Turning to article 15(3), defending themselves, those who support such biased laws say, “nothing in this article shall prevent the State from making any special provision for women and children.”³ While “special” provisions may be made, it does not otherwise obstruct the state from legislating on other provisions for communities other than women and children.

Laws must be equal for all otherwise it will attack the core principle of equality i.e. non-arbitrariness. Given, how discriminatingly laws are implemented and the inherent corruption through those who preach and administer it, there is much to be concerned about. This is what the article seeks to study, the possible areas of discrimination and the changes required therefore to undo the discriminatory effect.

Let us examine some of the laws that inherently bear such discriminations against men or against women.

³ CONSTITUTION OF INDIA, Arts. 14 And 15

JUDICIAL/LEGISLATIVE TRENDS IN INDIAN LAWS:

- **Hindu Laws**

- i) *Maintenance-*

Under sections 24 and 25 of Hindu Marriage Act, 1955, while both a man and a woman are liable to maintenance, it was held in the case of *Kanchan v Kamalendra*,⁴ that the wife shall pay to her husband maintenance only when he is physically handicapped or mentally incapable to work or else the spirit of the section would be defeated.

Section 24 deals with maintenance during the pendency of the litigation and covers all expenses during it if one has no means of independent and sufficient income. It was also held in the case of *Kanchan v Kamalendra*⁵ that even the husband can lay claim to it if he can prove the same.⁶

Section 25 on the other hand deals with permanent alimony or maintenance, payable monthly or in a lump sum amount, at the time of passing of a decree by the court.⁷ The bare reading of these provisions would suggest otherwise; that the objective of the provision is to provide maintenance to the financially weaker party irrespective of the gender.

Even when the wife has committed a matrimonial offence (desertion,

⁴*Kanchan v Kamalendra*, AIR 1992 Bom 493 (India).

⁵*Ibid.*

⁶Hindu Marriage Act, 1955, s. 25.

⁷*Ibid.*

cruelty, adultery) the husband has to pay alimony since it is considered his sacred duty to maintain his wife, parents and children. News reports surfaced that the husband was asked to pay 1 crore alimony even when the wife was guilty of cruelty. Such discriminatory and old and obsolete burden based on readings needs to be done away with the financially better off would pay the other alimony or maintenance and the quantum of which would be decided by the court.

There exist several instances where the Supreme Court asked the man to take loans to pay his wife alimony when he failed to follow the court order and instead state that he had no money. He was asked to pay his wife under two heads which include monthly maintenance of ₹ 1.75 lakh and the other the past arrears of maintenance from the year 2009 which amounts to approximately ₹ 2.60 crore, of which ₹ 50, 00,000 has been paid.⁸

ii. Adoption-

Under section 8 of the Hindu Adoptions and Maintenance Act, 1956, only the divorced, widowed, unmarried female can take in adoption or if her husband has been declared unsound by the court. But no Hindu female wife, in a marital relationship, can take in any adoption even with the consent of her husband. It is her husband who, under section 7 of the act,

⁸*Man Ordered to Pay ₹ 2.6 Crore, Monthly Maintenance to Estranged Wife*, NDTV, (Feb 20, 2021, 11:00 AM), <https://www.ndtv.com/india-news/supreme-court-orders-man-to-pay-rs-2-6-crore-monthly-maintenance-to-estranged-wife-or-face-jail-2374407>.

can take in adoption with valid consent from his wife.⁹

This is a minor discrimination that persists since; nevertheless, any couple would be able to adopt a child.

In the case of *Ghisalal vs Dhapubai (D) By Lrs* on 12 January, 2011,¹⁰ the Supreme Court held that a female Hindu who is unmarried or a widow or a divorcee can also adopt a son to herself, in her own right, provided she has no Hindu daughter or son's daughter living at the time of adoption. However, if she is married, a female Hindu cannot adopt a son or a daughter during the lifetime of her husband unless the husband is of unsound mind or has renounced the world.

iii) Succession-

Under Hindu Succession Act, 1956, there has been discrimination with regard to the rules of succession of female Hindus under section 15 of the act.

The property of a female Hindu dying intestate shall devolve according to the rules set out in section 16, — (a) firstly, upon the sons and daughters (including the children of any pre-deceased son or daughter) and the husband; (b) secondly, upon the heirs of the husband; (c) thirdly, upon the mother and father; (d) fourthly, upon the heirs of the father; and (c) lastly,

⁹Hindu Succession Act, 1956, s. 15.

¹⁰*Ghisalal v. Dhapubai*, (2011) 2 SCC 298.

upon the heirs of the mother.¹¹

Any property inherited by a female Hindu from her father or mother shall devolve, in the absence of any son or daughter of the deceased (including the children of any predeceased son or daughter) not upon the other heirs referred to in sub-section (I) in the order specified therein, but upon the heirs of the father; and (b) any property inherited by a female Hindu from her husband or from her father-in-law shall devolve, in the absence of any son or daughter of the deceased (including the children of any predeceased son or daughter) not upon the other heirs referred to in sub-section (1) in the order specified therein, but upon the heirs of the husband.¹²

The property of the woman is her absolute property and if she dies intestate, it would first devolve on her husband/children and in their absence, heirs of the husband, followed by her parents and then heirs of father and then heirs of mothers.

A careful perusal of the act shows that it is always the man in the relationship who is preferred first and only in his or his family's absence would it pass on to the woman (in this case the mother).

Hindustan Times states that the National Family Health Survey (NFHS) 2015-16 reports that 28% of women (between the age of 15-49) own land

¹¹*ibid*

¹²*ibid*

– either jointly or by themselves – and 37% own a house (jointly or by themselves), 53% of women have savings accounts in banks.¹³ They own 21.5% of all proprietary establishments in the country, according to the Union ministry of statistics and programme implementation.¹⁴ Their literacy rate has increased from 9% in 1951 to 65% in 2011. They now represent 46% of the total annual enrolments in higher education, and are 53% of the total post-graduate degrees awarded every year.¹⁵

The fact that the husband gets precedence over the family of the woman herself and if the source of the property is her parents, again, the father of the female gets precedence over the mother is pointed out by several as discriminatory and gender biased.

The defence given is that the point of the act is to maintain and preserve the lineage and paternal line of succession since we live in a patrilocal and patrilineal society. In *Mamta Dinesh Vakil v. Bansi S. Wadhwa*¹⁶, The Additional Solicitor General argued that a Hindu family is essentially based upon family ties in one's patriarchal family... the woman, upon marriage, goes into the family of her husband; the converse is not true. A woman gives up her maternal / paternal ties upon her marriage and

¹³Sanchita Sharma, *Central schemes help country fare better on wellness index: Survey*, Hindustan Times, (Jul 4, 2021, 03:00 PM), <https://www.hindustantimes.com/india-news/central-schemes-help-country-fare-better-on-wellness-index-survey/story-EjahPgJCJqI5k0oEvWIceK.html>.

¹⁴*Ibid.*

¹⁵Devendra Damle, *End gender-based discrimination in the Hindu Succession Act*, Hindustan Times, SEP 10, 2020

¹⁶*Mamta Dinesh Vakil v. Bansi S. Wadhwa*, LNIND 2012 Bom 748.

assumes marital ties. Hence, intestate succession for Hindus takes into account this ground reality and the other reason for the difference is the family ties are sought to be maintained and strengthened by the distinction in the rules of succession relating to Hindu males and Hindu females aside from their sex

- **Criminal/civil laws**

- i. Protection of women from domestic violence act, 2005:*

Under this act, it has been clearly stated that victims or *aggrieved persons* can be women only. This again is the manifestation of the inherent patriarchy that reiterates itself and supposes that dominating over men is preposterous.

Under section 2 (a), the definition of an aggrieved person is laid down as any woman who is, or has been, in a domestic relationship with the respondent and who alleges to have been subjected to any act of domestic violence by the respondent;¹⁷

Under section 2(f) domestic relationship has been defined as a relationship between two persons who live or have, at any point of time, lived together in a shared household, when they are related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption or are family members living together as a joint family.¹⁸

¹⁷Protection of Women from Domestic Violence Act, 2005, s. 2 (a).

¹⁸*Id.*, at s. 2(f).

If both these provisions are read together it means that any woman (mother, daughter, female cousin and others) living under the same roof with other men, with whom they are engaged in a familial relationship, can seek relief under this act if domestic abuse (mental, physical, emotional) has been subjected upon her and complaint may be filed not just against the husband but also against the relatives of the husband, including females (mother-in-law, sister-in-law and others).

To substitute the word “woman” with “person” would be an ideal situation wherein even men can seek protection under it especially when the definition itself is about an “aggrieved person” and not “aggrieved women”, thus such an interpretation is discriminatory.

Just a year back, the famous case proving men being victims of domestic violence was reported in Salt Lake in Kolkata, wherein the aggrieved person (a man) videotaped his wife beating him and burning him with cigarette ash and even with such clinching evidence the police refused to file a FIR against his wife although later they gave in. The charge, of course, could not be filed under this act.¹⁹

The fact that even men are victims of domestic violence might have been a distant reality in the past but is a tragic present today which, if not combatted, would result in several hundred cases being reported or unreported for that matter all across the country in the future.

¹⁹ Parthiv Chakraborty, *Human Rights violation for the sake of Women’s Rights – Domestic Violence and the Salt Lake case*, The Eastern Herald, 15 July, 2020.

ii. *Section 498A of IPC:*

If the husband or the relative of the husband of a woman, subjects such a woman to cruelty; they shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

‘Cruelty’ would mean—

(a) any willful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.

Those who want criminal action to be initiated against the husband or relatives of the husband can file a case under it. Punishment under it, as defined, is fine and imprisonment up to 3 years. Therefore, violence instituted against women to meet any demand for property or assets (dowry) that would be likely to compel the woman to commit suicide, would come under the definition of ‘cruelty’.²⁰

But quite surprisingly, the conviction rate under this provision is the

²⁰Indian Penal Code, 1860, s. 498A.

lowest among all crimes listed under IPC.²¹ While number of cases filed are more and pending cases, therefore, have increased too, but for every one conviction there have been five acquittals and one withdrawal such that 1 out of 7 cases result in conviction. Thus, conviction rate is not more than 12-14%.

This is shocking to say the least. Even if we take it for argument's sake that there are a further 10 to 20 percent of the cases where domestic violence has happened, but no evidence is found, yet the number is not convincing and still majority of the cases result in acquittal. One can reach an informed decision that this provision is highly misused, if not overly or only misused, which would be a hyperbole.

In the case of *Naval Ashok Agarwal v, The State of Maharashtra and Anr.*,²² the Bombay High Court mentioned that there is a pronounced tendency on the part of the complainant to rope in relatives of the husband due to the anger generated in the complainant against her husband, in the backdrop of acrimony and bitterness in their matrimonial life. We are of the opinion that such generalized allegation made against the petitioner in the aforesaid complaint does not disclose ingredients of offence under section 498A of the IPC.

²¹Rakesh Dubbudu, *Conviction rate of Sec 498-A cases is among the lowest of all IPC Crimes*, The Quint, (Jul 30, 2021, 3:21 PM)
<https://www.thequint.com/news/india/conviction-rate-lowest-domestic-violence-cruelty-498a-ipc>

²²*Naval Ashok Agarwal v, The State of Maharashtra and Anr.*, CWP NO.146 OF 2021 (India).

The Hon'ble Supreme Court in *Preeti Gupta and Another v. State of Jharkhand and Another* ²³ stated in para 32 that, it is a matter of common experience that most of these complaints under Section 498A IPC are filed in the heat of the moment over trivial issues without proper deliberations. We come across a large number of such complaints which are not even bona fide and are filed with oblique motive. At the same time, rapid increases in the number of genuine cases of dowry harassment are also a matter of serious concern.

With every petition for divorce today, an additional case of domestic violence is being registered which results in harassment if not conviction. Moreover in the case of *Arnesh Kumar vs State Of Bihar &Anr.*,²⁴, the Supreme Court held that state governments must instruct the police officers not to automatically arrest in case complaint has been filed under section 498A but to satisfy themselves about the necessity for arrest under the parameters laid down above flowing from Section 41, Cr.PC.

iii) Rape laws (section 375 of IPC):

A man is said to commit 'rape' who has sexual intercourse with a woman under circumstances, like, against her will, without her consent, with her consent, when her consent has been obtained by putting her or any person

²³*Preeti Gupta and Another v. State of Jharkhand and Another*, (2010) 7 SCC 667 (India).

²⁴*Arnesh Kumar v. State of Bihar &Anr.*, (2014) 8 SCC 273 (India).

in whom she is interested in fear of death or of hurt or with her consent, when the man knows that he is not her husband, and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married, or with her consent, when, at the time of giving such consent, by reason of unsoundness of mind or intoxication wherein she is unable to understand the nature and consequences of that to which she gives consent or with or without her consent, when she is under sixteen years of age.²⁵ It is further explained that penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape. But sexual intercourse by a man with his own wife, the wife not being under fifteen years of age, is not rape.²⁶

Although male rape is not a very common phenomenon, to disregard it completely would be unjust. The social stigma associated with it, the masculinity that is burdened and the mental trauma of being raped yet having no means of justice while most are under the impression that “men always love it”, often lead to suicide.

If we assume that there are two groups, A and B, and 8 out of 10 times A's bodily rights will be violated while B's bodily rights will be violated only twice, while it is in common sense that protection along with justice must be secured to A but this does not discount the responsibility of the legislators to make the laws for those, whose rights are rarely violated but

²⁵ Indian Penal Code, 1860, s. 375.

²⁶ *Ibid.*

violated nonetheless, such as group B. This is a traditional method of securing justice for the majority while the minority slowly perishes and disintegrates.

We do not disagree that women are who are vulnerable are in need of urgent protection and justice. But that, nevertheless, does not discount other communities such as men and transgender from asserting their rights and seeking legal assistance and means of justice if their bodily rights are violated. To focus pin pointedly “only” on women, while other sections have no means of justice is outrageous.

The Guardian wrote a report titled, “Spare innocent men anguish’: India ruling aims to end false rape claims”²⁷ which blatantly points out how the judicial system too has noticed the situation of false rape cases and looks to bridge the gap.

The Print published an extensive report on Vishnu Tiwari who was imprisoned in 2001 which the Allahabad High Court has deemed to be a false rape case after 20 years.²⁸ He raised concern as to how he would start a new life at 43.

²⁷‘Spare innocent men anguish’: India ruling aims to end false rape claims, THE GUARDIAN, JULY 29, 2017.

²⁸BISMEE TASKIN , *How do I start life at 43, asks Vishnu Tiwari who spent 20 years in jail in false rape case?* The Print,(Aug 28, 2021, 10:45 AM), <https://theprint.in/india/how-do-i-start-life-at-43-asks-vishnu-tiwari-who-spent-20-years-in-jail-in-false-rape-case/618521/>.

It is very important for courts to first recognise male rape. It is then imperative for courts to then chalk out cases of false rape which would be only possible with greater efficiency and effective study of medical evidences and not convict based on circumstantial evidence alone. Also, it is indispensable that police investigate properly and with care rather than starting with the assumption that rape has actually taken place. This predisposition of the mind even before the start of the investigation might prove to be disastrous.

In USA, Rape is defined by the Department of Justice as "Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim."²⁹ Thus, all kinds of penetration without consent, irrespective of the victim's gender, are illegal and can be charged under it.

In UK, in the case of *Regina v Ismail*³⁰, it was held that the court should make no distinction in penalty between vaginal, anal or oral rape. The dangers might be different, but they remained real. Cases will vary in the offensiveness to the victim and courts should recognise the value of victim impact statements. Although it is presumed that only a man can commit rape while both men and women can be raped in some countries, it is still more progressive than Indian laws.

²⁹THE UNITES STATES DEPARTMENT OF JUSTICE ARCHIEVES (Aug 26, 2021, 03:40 PM)<https://www.justice.gov/archives/opa/blog/updated-definition-rape>.

³⁰*Regina v Ismail*: CACD 15 Feb 2005 (Aug 27, 2021, 11:45 AM)<https://swarb.co.uk/regina-v-ismail-cacd-15-feb-2005/>.

CONCLUSION:

Criminology, suggests that a crime is an act of violation and gender-neutral in itself. There is nothing such as a gender-specific crime and can be committed by any person. Criminal behaviour is learnt despite primordial man retaining some animalistic tendencies of the past yet sufficient biological safeguards exist to combat them. It is in the cases of crimes over time which suggests that some sections of our population are more vulnerable towards it than the other. Moreover, not all crimes and offences alike are given equal weightage in all societies but just because some crimes are not reported, talked about or are hardly recognised by the society, does not mean they are not important or they do not occur, both of which are wrong notions about crimes themselves. But it is suggested time and again, laws should not just be based on the intensity or increasing number of crimes against a particular section, but also to provide safety to all members of our society irrespective of gender, age or sexual orientation.

As is seen, cases are not restricted to criminal cases alone as the ravages of patriarchy are found even in personal laws wherein it becomes the duty of the man to pay his wife alimony irrespective of his financial condition, reason for divorce and the one who actually committed the matrimonial offence (desertion, adultery and of the like). Thus, in a world of growing awareness and education about human and fundamental rights and equality of the status of women (which is essential), it is only hypocritical that those who protest against patriarchy are perhaps the same ones who

partake in employing such patriarchal measures to charge high quantum of alimony. Patriarchy, a double-edged sword, must be abolished in the sense that it must not, on the contrary, give rise to matriarchy, but rather be a pillar for the formation of an evenly matched egalitarian society.

As long as societies continue to exist, parallelly possible are the chances of rights violations of men, women, and others alike. But laws cannot just remedy female/male rights violations and ignore the rest because the objective of law is equal protection of all and equality before the eyes of the law.

Some of the most important suggestions would include replacing gendered clauses with gender neutral phrases so that it would accommodate not just males or females but transgender too whose protection is often compromised. There was once a suggestion to replace the word “rape” with “sexual assault” but it never came to fruition. Replacing the phrases that include “women” in it with “persons” would be inclusive of men and for that matter transgenders too. Moreover, recognising first and collecting data about violence and harassment of men is essential as well. Refusal to file an FIR of a male victim of domestic abuse and rape speaks volumes that need changing. The lifelong denial that men are not victimised and that they do not need protection, in turn, put other groups such as the transgenders in a vulnerable position. Just like some countries have taken a liberal approach towards the definition of ‘rape’ including wider aspects of it, our country too can

follow suit. Emphasis must also be laid on how these laws are implemented for in a country with such a huge and diverse population, to effectively implement it is indeed a challenge. The political struggles, bureaucratic corruption, vested interests of shareholders in media, organisations investing in political parties for gains are all a part of this complex equation transcending which laws need application in an honest form.

Referring to the “Goldilocks’ dilemma” of how much is too much and what exactly is the right amount to set the wheels of change in motion? As of now, silence and in the long run, time is its answer.



BLOGS



EQUALITY VIS-À-VIS UNTOUCHABILITY: A STUDY OF RIGHT AGAINST



Lina Pavin
B.A. (H) LL.B Semester III

The series of untouchability has evolved a long way in India. Started from the early ages, this series has shown many generations, has made each caste to divide in a way. Pollution, we all have heard are of air, water, etc. but then why would the people be using pollution to define and to divide caste?

Castes as we have known are divided into four categories – Brahmins, who have always been at the top of this pyramid, followed by the Kshatriyas, the Vaishyas and lastly, the Shudras. They all have individual job to perform based on their

caste. For say, the Brahmins who are at the top most position is priest, as they being at that position are quite knowledgeable and thus knows all the chants and the rituals to perform. With evolution of time, many things have changed, but the untouchability has been a sensitive topic since the start. The Shudras were the last at the pyramid and thus the unwritten rule was to serve the other higher cast.

The higher caste has dominated the society since centuries. A practice of untouchability between castes was thus formed. Untouchability has so heavily practiced, that it has carried forward the process in all generations; each and every generation has suffered or is suffering from the untouchability. In a village, if a man or women say is of an extreme lower caste, such as the Dalits then they have to follow every rule that is made by the higher caste. The higher caste cannot eat or drink water from the extreme lower caste, they cannot accept anything from the extreme lower caste, and they cannot walk together or worse cannot even come near their shadow. If everyone, suppose, are on a village mart, and the lower caste are coming, then everyone side aside or leave the mart immediately. Marriage and education are an error, out of the context. Lower caste cannot sit in front of higher caste, or cannot drink water in a glass or eat food, in their presence. The equality has been obstructed. Lower caste has to live separately mainly in the outskirts of the village forming a mini village in

themselves. This purity system in higher caste, especially in male dominance higher caste has paved its way. Today, if the lower caste goes to raise voice or try to revolt, they cannot, because either they are beaten badly or their family member is kidnapped and tortured badly or get raped. Just to show the dominating position, they have chosen a worse brutal and violent form.¹

The inequality mostly gave rise during the British raj, although what changes the inequality, the untouchability was modernization, industrialization also shockingly in the British raj, but at the end of British raj. Before that the untouchability was always there, but it paved much way during the British raj, because that came with race and it affected India, significantly. Untouchability in women also has been a norm, and a most controversial topic in the series. Everyone understands that women are most impure when they are in their menstruation days, and are seen to not enter kitchen, or temple, and even not at their own room. Women menstruation is natural, and no one has understood creating ritual purity and ritual pollution. The untouchability has also played a role there, no one can touch the woman, and they live in a separate room from others. Although many of the norms are broken, but still there is a doubt whether it is really broken or not.

Untouchability as said before has evolved with the change of time, it has not completely gone, and it has stayed in many

villages or in many households. The concept has changed in a modern form. Ritual purity and pollution are something that still goes on, some norms are broken but many or most of the norms have stayed in the society. Somewhere, someone is still fighting for his/her rights, or his/her equality and the fight is tough but still fighting.²

1 <https://www.sociologyguide.com/social-stratification/Purity-and-Pollution.php>

2

[https://photius.com/countries/india/society/india_society_purity_and_pollution.h
tml](https://photius.com/countries/india/society/india_society_purity_and_pollution.html)

WHITE COLLAR CRIMES IN LEGAL PROFESSION



Bhaswati Chakraborty

B.A. (H) LL.B Semester VII

We generally do not hear about white-collar crimes in our day to day lives, but these are nonviolent crimes which are on the rise and are being committed with the sole intention of having financial gains. The influential criminologists of the 20th century and also a sociologist, Edwin Hardin Sutherland, for the first time in 1939, defined the term White collar crime as “*crimes committed by people who enjoy the high social status, great repute, and respectability in their occupation*”.¹ In a layman’s word, White collar crimes refer to illegal act that is committed by the people who belongs to a higher class and reputable group of the society. Considering white collar crimes are nonviolent in nature, it takes many different forms. Different forms of white-collar crimes in India as well as over the world are corruption, money, laundering tax evasion, computer and internet fraud, bankruptcy fraud healthcare and insurance fraud, public corruption and bribery, cybercrime, fake employment placements and the list the list of these crimes never ends. The

primary reasons behind the growth of white-collar crimes are greed, competition, lack of stringent laws. In a developing country like India, white collar crimes are the major causes for its under development. It poses a threat to the overall economic advancement of the country. Our society has become contaminated. And white-collar crimes add a great danger to the society as a whole. People who are cited as moral examples are engaging themselves in such crimes. White collar crimes are often called as corporate crimes committed by the educated and professional elite during their occupation. In order to deal with the increased nature and variants of white-collar crimes India has adopted numerous laws which has been passed on this regard, to name some, Prevention Of Money Laundering Act, 2002; Prevention Of Corruption Act, 1988; the Essential Commodities Act, 1955; The Industrial Development And Regulation Act, 1951; The Imports And Export Control Act, 1947; The Foreign Exchange Regulation Act,1973; Companies Act 2013; The Indian Penal Code,1860; The Information Technology Act,2000. Not just the government but also the Reserve bank of India has been working continuously to eliminate the white-collar crimes from the society. The SEBI (securities exchange board of India) played a major role in limiting these offences.

¹Aroj Ali, *Impact of White Collar Crime and Essence of Special Enactment: Bangladesh Perspective*, 6(2) *IJHSSE*, 41, 41 (2019).

It has laid down various rules and regulations with reference to white collar crimes and has imposed strict and heavy consequences on wrongdoers.

White collar crimes have turn out to be a global phenomenon and do no longer confine itself to a particular area. It has diffused with different numerous professions viz. medical, corporate sector, education, engineering etc. It also has its presence in legal profession.

Legal profession is assumed as one of the most respectable and a noble profession. In the present era, the white-collar crimes are also carried out by the lawyers, magistrate & judges, who in the name of providing justice, started abetting wrongful acts and thereby pursuing their slender interests. The legal profession is not looked with much respect in the present days because of the unethical practices that are carried out by the legal professionals in order to procure clientage. Various misdeeds like, fabricating false evidences, engaging professional witnesses, violating the ethical standards of the profession, are often practiced by the legal officials. There are various incidences where the legal practitioners for money or other services by their clients present concocted

involved in the wrongful practices with the help of the ministerial supports and violate their ethical standard just for the sake of money and leisure they get in return. Unethical practices like, manipulating evidences and faking witnesses and so on, give the case another dimension, due to which the innocent is sent behind the bars and the accused are left free. There are various incidences where the lawyers with the help of the police officials cooked witnesses and arrange professional alibies, for defending the criminals.

White collar criminality among lawyers is nowadays widely rolled out, the legal professionals are advising organized criminals, playing prime role in encouraging and assisting white collar criminality. However, this doesn't mean that all the legal practitioners are involved in corrupt practices and are unethical. There are lawyers who are sincere and honest with their work and have earned respect from the society.

Due to the expanding percentage of the white-collar crime in India, the area of legal profession is under the purview of the white-collar crimes. It is the responsibility of the legal officials to ensure justice who seeks it. But if the legal fraternity gets polluted, the society will lose complete faith upon the legal system. In the case of *Legal Aid and Advice v. Bar Council of India*³¹, the apex court opined that the legal professionals act in accordance with certain social

³¹Legal Aid and Advice v. Bar Council of India, 1995 SCC (1) 732.

obligations, concerning to monitor administration of justice along with the courts. Advocates should not get involved in any kind activities that lower the standard of the legal profession and strictly adhere by the code of conduct.

As the rate of white-collar crimes in India is increasing at an alarming rate, certain measures have to adopt to curb the expansion of these crimes. Awareness camps can be set up where masses can attain legal education through media and various other audio-visual platforms, legal literacy programme might benefit in diminishing the white-collar crimes to some extent. Certain amendments can be introduced in IPC so that white collar criminals are unable to escape their punishment due to their high social status. Special courts and tribunals can be created by the government which can sentence these criminals. The white-collar criminals must be dealt with more seriously, by giving them strict punishments considering the gravity of the damages caused.

POEMS



BLIND



Sohini Chakraborty
B.B.A. (H) LL.B Semester III

The sight has no worth,
Wherever I open or close my eyes it remains the same.
How do I believe the outer world?
My instinct entirely depends on the hands of the clock.
The eyes are locked into a frame of darkness
They are soaked in tears.
Neither they can choose nor can they wish to see:
My home land, the first ray of dawn,
The beauty of foliage, the ingenious sky

The unstoppable stream, the unending road.
Still the vision is clear through voices
Each and every drop of rain pours a dripping sound
Into my ears,
The thunder makes me look towards the dark clouds.
The dusk is transparent to me, the birds chirp in their eyrie,
The owl hoots and I stare up at the night sky.
All is dark and empty.
But my illusionary mind can still see them
And forever my vision enjoys my imagination.

A JOURNEY: WHITE TO BLACK



Amrita Khanal
B.B.A. (H) LL.B Semester III

When I was eight, one day I felt queasy,
My parents rushed me to the hospital which was messy.

With my bare eyes I could see,
How they were laying on the floor restlessly.

Not because the doctor was engaged they were laying,
It was of impecuniousness they were laying.

That was the day I wanted to become a doctor,
When I didn't even know the various specialization of doctors.

Twelve I was when I thought cardiologist was what I wanted to
become,
Was supported by my parents on what I wanted to become.

Sixteen I was when I chose the stream,
From the past eight years I had the same dream.

Bio science I choose as my stream,
To be a cardiologist and fulfill my dream.

My dream was not arbitrary,
I wanted to treat impecunious people for free.

Eighteen I was when decided to go away to train my dream,
Celebrated that gigantic moment with a scream.

Strenuous and adventurous stay it was,
To come back home after a year cheerful I was.

After few weeks the menacing disease was in the country,
And the lockdown was announced in the country.

Everything was scattered and disturbing,
No one knew what was the next thing.
Day by day the disease was spreading,
Scared we were of the happening.

Generally NEET takes places in May,
But then I could visualize my dream going away.

Colleges and schools were and are still closed,
All the examinations were postponed.

Losing one more academic year was scaring me,
So many mixed thoughts were inside me.

From the beginning my father had thought of an alternative,
I was advised by him to opt for an alternative.

Nineteen I was when I saw the shattering of my dream,
After introspection I decided to change the designation of my dream.

Doctor was what I wanted to be,
Lawyer is what destiny is preparing me to be.

Then I wanted to own a white coat,
Now life is preparing me for a black coat.

Still it is the same agenda of free treatments,
As the heart wants what it wants....

GOD GIFT'S NATURE



Vinita Sharma
B.A. LL.B (H) Semester III

Everything is nature,
God gave us this feature.
Birds fly in the sky,
And mountains are so high.
We have learnt to call it Mother Nature,
But sadly all we do is ruthless torture.
Nature is so beautiful it blows our mind..
You can lose yourself in it or find yourself,
At the same time...
But it never betrays,
It always gives us right way.

Please leave it as it is,
Don't try to play with it.
Everything that lives and grows in nature,
Animals big and small.
Nature is plants that grow so tall,
Nature is beautiful in every way.
Wonderful, exciting and needs our care,
So listen, learn and do your part to keep,
Nature beautiful forever.



SHORT STORIES



THE CURTAINS



Sohini Chakraborty

B.B.A. (H) LL.B Semester III

The age is unlucky for me and I never thought of being in such a bad phase, I want God to hurt me but not my wife who is fighting with paralysis. Day and night she passed her days on her bed, my financial condition dropped down to zero, so I am just counting days how long I'll breathe as I'm 64 and weak on my knees"

I am Mr. Stan and 2 years ago I and my wife Elin lived very happily and my financial condition was good. Elin was absolutely normal before her paralysis. We didn't have any children but we spent our young and Middle Ages merrily. On every occasion like New Year's Eve, Christmas we always went to the orphanage and spent some time with the children and Elin used to buy them new clothes, food and

donate as she treated them like her own children.

But life always treats people in an exception and uncertain way. After 2 years I lost my job and my debts kept on increasing. Misfortune terrifyingly came into my life, after a few months Elin too became paralysis and she didn't have anyone to look after her other than me. Everything went to an upside-down moment; we had to face a huge misery at this age of our life. I did a clerical job and I spent all the savings on Elin's treatment, I borrowed some amount from my friends to carry out my household needs. But how long could I do that? Gradually, the friendly neighbors became the mean-minded ones.

One day when I was walking down the streets, I saw a banner where it was asking for a salesman in a fair. The fair would start from tomorrow evening and certainly, I thought of taking this work at least I don't have to lay hands before the people or if I don't eat but I can feed my wife.

The next evening, I went to the fair and I was searching for the manager, I heard one voice like it was someone calling me from back I thought it was the manager, but it was not.

The girl says "hello ...can you please come here for a moment?"

I went to her but in my mind, I was thinking that is she going to give me some instruction for the work but I haven't applied yet how will she get to know. The girl was in the stalls of popcorns and cotton and sugar candies. She was wearing a white apron and her hair was tied into a fine thick ponytail. She was looking at me and smiling in a manner as she knew me before. I was not so curious because I was much worried about my present situation.

“Yes, you are the one who gave a voice behind me.”

The girl says “Yes, how are you, Mr.Stan?”

“How do you know my name girl? I don’t know you.” I replied

The girl replies in a calm voice “You may not know me, but I know you as I was in search of you and I wanted to repay you back. No one stood beside me but you were the only one who came as a light in my misery, I was going door to door as I was left alone on the streets, and one day you came handed me a some money and you said me to work but not to lay hands before the people. But for now, I don’t have anything to give but I bought some curtains for my home, maybe I want to give you this as a token of gift.”

I was not in a state of my mind to go in flashbacks to recall the good deeds I did to someone because I am helpless at this moment so it is not my intention but it's my situation for not accepting any gift as I am in a search of a job for a better life.

The girl bent down and pulled out the curtains from the drawer and forwarded it to me.

“Please take this, it would be a great help to me ...”

I cannot refuse her but had to take it and she was very curious about something as she was looking at my weak face and she didn’t ask what was going on with me.

I didn’t wait for so long as I was in search of the fair’s manager and then I thought maybe I’m late so I went back to my home. Going down the streets, my body was shivering as the season was coming near November and the temperatures of t he winds are changing. My mental

situation was in grief that what answer I could give to Elin though she doesn't talk but will finely understand by my sorrow expression. May these curtains can make her mental health a little better so that she will understand that I really bought them by doing the work.

I entered my house and Elin was lying on her bed and her eyes were slightly shifted as if she wants to say or know something. I went straight to the window and replace the curtains with the new ones. She has a lot to say but her eyes tell me everything and I'm the one who is pretending that it's going to be ok. The next day morning my phone was ringing I received it and it was a call from my old printing press office. Everything stopped for a moment it feels like I can touch and see the miracle that is happening with me. I was ready for my old job and I will start it from tomorrow. Days passed and uncertainly time clears the dust from my fate, one day I saw my wife trying to move her legs and hands. Tears came to my eyes and the next day I bought a wheelchair for her at least she can move around. I cleared all my debts and kept a maid for Elin to take care of her. My surroundings of life came back as same as it was 2 years ago. Day by day I saw Elin can move or can make gestures to express herself. One year passed away and I was coming back from my work on the same streets and at the same time, I again saw that banner of fair. This time it reminded me of the girl who gave me the curtains, and because of which my life came back to normal. But it was uncertain, I don't believe in the superstitious materialistic things, but still I wanted to know the reason.

On that night I went to the fair along with Elin, as I thought of

introducing her to the girl. The crowd at the fair makes me lost my vision, forgetting those directions. At the corner of the food stall, I saw the same candy shop and I found the girl selling popcorns and sugar candies.

“Do you remember me?”

The girl replies “Yes I do.”

“I really want to ask something to you that everything came back to me like a miracle, the day you gave me the curtains I was not in the position to accept it as I was in a search of any sort of work to stabilize my condition. That day I didn’t wait for a long time. Today my wife is cured but cannot walk but at least she is not in the bed.”

The girl was smiling and she says “I didn’t do anything, there is nothing behind the curtains but I can assure you that the curtains are the reflection of your karma.”

THE BEAR IN THE WOODS



Dipanjan Nandi Chowdhury
B.B.A. LL.B (H) Semester V

It was a few weeks from Durga puja. Uncle Shankar and I sat at the breakfast table reading the newspaper. "Oh there it is again!" exclaimed Uncle Shankar in a rather concerned and annoyed voice. On asking him what it is, he showed me a news article in the paper that was talking about missing people from several remote villages in the mountains. "I have been seeing similar articles in the paper too for the past few months. What is going on?" I asked Uncle Shankar. "No clue" he replied. At this point, Uncle Shankar got up to wash his hands leaving his cell phone on the table, when his phone started to ring. The caller ID read 'DSP Ghosh'. Uncle Shankar answered the call and after exchanging pleasantries he asked the DSP "what has been going on in these villages in the mountains? I have been reading quite a lot of articles in the newspaper lately about this."

A little while later Uncle Shankar informed me he was going out and asked me to tour the area in the meantime.

He returned in the evening with a look of concern on his face. I asked him: "What happened Uncle? Why do you look so worried?" He sat down and briefed me on the situation, "I went to visit DSP Ghosh in his office to discuss the recent happenings in those villages. He informed me that in the past few months several cases of mysterious disappearances have been reported at the police station near those villages. He had the case files and told me that the department had been planning to approach me to look into this matter. IT Department wanted me to investigate these disappearances."

The next morning Uncle Shankar woke me: "Freshen up" he said, "get dressed. We are leaving in 15 minutes". I had no time to ask him any questions. I quickly got changed and packed my bags. As we headed outside a car was waiting for us at the gate. A little while later as we got in the car and started our journey it became clear to me that we were heading towards the mountains. Two more people, whom I didn't know, joined Uncle Shankar and me. Uncle Shankar briefed me about our destination. He said, "Bhaipo, remember those villages that were mentioned in that newspaper article 2 days ago? That is where we are starting our investigation from". It was almost afternoon when we reached the said village. Upon reaching there Uncle Shankar and I visited the local police station. There we collected the details about the missing person and then, accompanied by the police, we visited his home.

The person that went missing was 32 years old Mr. Rai. He, along with his family, is involved in sheep rearing and small-scale woolen textile manufacturing. Talking to the family I got to know that Mr. Rai had gone that evening to bring back the sheep that he releases in the pastures every morning to graze. And he never returned. On enquiring further about his disappearance from the villagers we came to understand that even the villages had no clue so we decided to visit the spot where Mr. Rai would normally leave his sheep to graze. The field was situated at the slope of the hill and ran down to the river. An interesting fact was that the forest near that region was very close to the said field. I asked Uncle Shankar to return to the Circuit House as it was getting dark; he however decided to stay there a little longer. The next morning we went to the village from where the first person went missing. This was a young girl, around 19 years of age, who went out one afternoon to collect some firewood from the nearby forest but never returned. One interesting detail that we got to know from the villagers as well as from this girl's family was that footprints of a bear were seen around the place where she went to collect the firewood usually following her disappearance. The villagers also informed us about a veterinary doctor who went by the name of Dr. Sharma. The villagers believe he was the first person victim to this trend but this information, for some reason, surprised Uncle Shankar. He immediately called Inspector Thapa to enquire if a missing complaint had been lodged, and Inspector Thapa confirmed that there was no such case. After this, that very day we visited the third village to get the details of one Mrs.

Banerjee, who along with her husband, runs a fish farming business. Mrs. Banerjee was the third missing person: she disappeared one morning when she left home to visit her fish farm. This time also no villages had any clue of what might have happened to her. "This seems pointless," said Uncle Shankar sitting in the car on our way back to the Circuit House. "Three missing people, three villages, but no connection that can be drawn except all of them disappeared mysteriously"

- "But wasn't there a fourth missing person?" I asked.

- "Oh yes, you mean the veterinary doctor from the other village," said the detective.

The next morning Uncle Shankar left before I even woke up, so I decided to experience the mountains and their scenic beauty instead. That day I visited local marketplaces, cafes, and small eatery restaurants and returned to the Circuit House by evening. On returning I found Uncle Shankar sitting in the room with a concerned look on his face. I asked him what had happened, he replied: "we will immediately have to visit the second village. Inspector Thapa just called and informed me that a dead body has been recovered by the riverside and he suspects it belongs to the girl who had gone missing recently." We wasted no time heading to the site. Upon reaching the riverside we saw the corpse of the girl; it appeared as if she had been attacked by a wild animal, quite possibly a bear. Her torso was almost ripped apart by what looked like an inhuman entity, but the face remained unharmed though. Uncle Shankar crossed the river and walked towards the forest. After a while, he returned, clicked a few pictures, and asked Thapa to

take the body for postmortem. On our way back Uncle Shankar got off the car when we were near the first village. I asked the driver to drive me back to the Circuit House; it would take him a while. That night I waited, staying awake almost past midnight, but Uncle Shankar did not return. The next morning, when my eyes opened, Uncle Shankar stood before me and said "pack your belongings, vacation over; time to head back" and so we did. After returning to the city, he dropped me at my home and then headed to his own. After that, days had passed and I hadn't heard from Uncle Shankar. Then one morning, the newspaper arrived with front-page headlines reading "Missing villagers mystery solved!" In it, they credited Uncle Shankar for solving this case.

Being very impatient, I immediately rang his cell phone, which he answered "Hyan Bhaipo, do tell."

I immediately charged him with my questions "How did you solve it? When did you figure it out? What was going on? Who is behind all this?" The detective started laughing and asked me to regain my composure. He informed me that he would be visiting my home that evening to answer my questions.

As the hour closed in I started to grow impatient checking my wristwatch to see how long before he arrives. Uncle Shankar came about around 5:30 in the evening. As I heard his voice from the hall, I rushed to receive him, eager to get the answers. As I was rushing down the stairs to the hall he noticed me and said "Oh yes ... of course, Bhaipo it's important I address the elephant in the room, but first let us take a seat." So we went and sat in the living room.

Now the table was set for the narration. Uncle Shankar sat down on the long armchair facing us all and began his narration: "that night after I sent you back to the Circuit House, I walked towards the forest and then past it. There I noticed a crooked stone road; as I followed it the connection between the cases became clear to me. You see, this road connected all the villages that had reported such missing persons. At that point I called Thapa and asked him to enquire about the post mortem report of the girl whose body we had discovered by the river, the report confirmed my suspicions. Although it appeared to be an animal attack that caused her death the postmortem report revealed that her heart, kidney, and few other internal organs had been surgically removed. The next day after I dropped you home I went straight to the DSP's chamber. There I explained to him my suspicions and asked him to get his team ready. I was sure whoever was behind these abductions was using this road as their means of travel. Then 2 days ago, the officers, who were on duty to monitor that road, called in the headquarters. They informed me, a van had recently been spotted driving through that route; the DSP called me reporting this development. I instructed them to keep an eye on the Van and only when the abductors step out should they arrest them. After they were rescued some potential abduction victims, one of the officers informed me that that night one of the abductors stepped out of the Van with a bag in hand, and in that bag was a bear costume which this person changed into once he got into the forest. That is when the officers decided to arrest them. On further interrogation of these offenders, the

police discovered that they were members of an organ trafficking racket operating in that area and once the police raided their lair, guess who the head was?"

"Who?" I enquired. The Detective smiled. Adjusting his glasses, he said: "The good doctor!"

"Wait, you mean that veterinary doctor, Dr. Sharma?" I asked.

Uncle Shankar nodded his head confirming my statement.

"I had my suspicions about Dr. Sharma when I heard from the villagers that he was the first to go missing because when the DSP had briefed me about the case he never mentioned the disappearance of Dr. Sharma. Furthermore, when I inquired if there was any missing report lodged regarding the disappearance of the good doctor, Inspector Thapa assured me that that wasn't the case. I also got to know from the villagers that after the doctor went missing his family's economic status got better which was hot considering he was the only earning member of the family," said the detective.

"So what happens of them now? And what about the other people who were missing?" I asked.

"Unfortunately, the people that had been abducted could not be recovered mostly because the doctor had operated on them already and had removed and sold their internal organs in the black market. As for Dr. Sharma, he is being prosecuted on the grounds of organ trafficking". Saying this Uncle Shankar concluded the case report and after a lovely evening together with family, he left probably heading to his next adventure.



PHOTOGRAPHY





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