

In AIR 1978 SC P.597 (*Maneka Gandhi's* case) Justice *M.H. Beg* refers to a case in *Cooper v. Wardsworth*, wherein Justice *Byles* observed the Laws of God and man both give the party an opportunity to make his defence. I remember to have heard it by a learned man that even God himself did not pass sentence upon Adam before he was called upon to make his defence.

“Adam (says God) where art thou, hast thou, not eaten of the tree whereof I have commended thee that thou should not eat”. The same question was also put to Eve.

AIR 1985 SC P.1416 Interpreting Article 311 of the Constitution Justice *D.P. Madon* in his leading judgment dealing with Principles of Natural Justice observed the requirement of hearing both sides before arriving at a decision was Part of the judicial oath in Athens. It also formed the subject-matter of a proverb which was often referred or quoted by Greek playwright Aristophanes in his comedy ‘Wasps’ and Uripides in his tragedies ‘Heracleibae’ and ‘Andromache’ and among Romans Seneca in his tragedy Medea referred to the injustice of coming to a decision without a full hearing.

AIR 1994 SC P.268 A case dealing with appointment of Judges, Justice *J.S. Varma* Upholding the Principle of primacy of opinion of Chief Justice in appointment of Judges

began with a note of caution by quoting *Shakespeare's* comedy ‘Measure for measure’

“O, it is excellent,
To have a giant's strength,
But it is tyrannous
To use it like a giant.”

In the same judgment Justice *S. Ratna Velu Pandian* began with a prologue quoting the Biblical apologue in the Old Testament as coined by *Frances Bacon* “Solomon's throne was supported by lions on both sides, let them be lions, but yet lions under the throne; Being circumspect that they do not check or oppose any points of sovereignty.”

AIR 1995 SC P.605 Justice *J.S. Varma* dealing with Religious Freedom begins his leading judgment with a quote from Jonathan Swift “We have just enough religion to make us hate, but not enough to make us love one another”.

He also quotes a Rigvedic Hymn “Ekam Manushi Jathi = All human beings are of one race.”

I propose to end this endless subject with a quote from George Bernard Shaw from his preface to his play ‘Apple Cart’ “*It is most easier to write a good play than to make a good law*”.

HUMAN ORGANS TRANSPLANTATION

By

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There are 3 types of countries in respect of Human Trafficking. 1. Origin 2. Transit 3. Destiny. Basically socio economic backwardness of citizens driving to opt and be vulnerable to trafficking which is a known phenomenon. The menace of exploitation

of children, women and scheduled caste and scheduled tribe people is still prevalent in our country in so many rural areas and which are not being exposed to media also due to lack of proper facility to even go there. Especially the hill top regions are also

not an exception to this trouble shooting problem.

Adding fire to fuel to fire the transplantation of human organs to trafficking has created new dimensions to investigating agency to clip the wing of the culprits. Co-operation from public and Non-Governmental Organisations are very much essential to check down such type of organized crime. Now the procedural laws have been changed and a witness once present in criminal Court need not beat around the Court because of the direction of the Apex Court in *Rajdeo Sharmas'* case which restricted the unprincipled practice in legal fraternity. Now even in Courts evidence can be recorded by using visual video display system as held by the Supreme Court of India in *Dr. Greenberg's* case. So letting of evidence or deposing from a foreigner by using the electronic media is inserted in our Evidence Act 1872 to avoid the hurdle of travelling difficulties.

The recent new item which hit the head lines of Newspapers disclosing about kidney racket by Mr. Dr. *Horror* drawn the attention on The Transplantation of Human Organs Act.

The jurisdiction of the Act and it's punishments have to be explained in conducting of Refreshing Course in Judicial and Police Academies to enlighten young Judges and prosecutors and Investigation Officers to know about their power and where the charge-sheet has to be laid down. The people of Agency Area and hill top regions are still exposed to bonded labour system and sexual assualta. Special team of that locality, with sincere Village Revenue Officers have to be constituted under the supervisory powers of the District Collectors, *who are AGENTS to Government in Agency Areas*, to monitor the situations periodically.

The ministry of Women and Child Welfare and Social Welfare Departments have to be interacted with these special teams to check this type of crimes. In our Constitution Right to live, Equality before Law and special privileges for women incorporated in

Fundamental Rights and in special statutes just like the Domestic Violence Act to safeguard the interest of these easily wounded section of people. To honour the founding fathers of the Constitution of India, the monitoring and administration departments have to be let in to practical oriented field work failing which only finding fault on the Government and Investigating Agency cannot be find fault on this organs transplantation and human trafficking.

School dropout, desire to join in moderate jobs to work in cities, tourism with hidden sex sops, addiction to bad vices, desire to earn money in short span of time without having educational qualifications, discarded children by divorced parents, lack of parental care on kids are reasons for existence of this crime. Unfortunately in our country the rights of children of divorced spouses are not defined in terms of immovable assets. The law of succession an out date law prescribes the right of children only in ancestral properties and in the event if either of the spouse dies in testate *i.e.*, without executing a document to whom the property go, the only it will be dived or devolved.

But in the event if a child is discarded by both mother and father after attaining the age of majority then is it possible to get a job practically in this country at the age of 18 years *i.e.* without proper parental care and attention. To the surprise of many that such children have no right of the self acquire properties of parents and their personal earnings. Such children are easily fell in the net of traffickers and being made as scapegoats. Hence our Parliament has to take urgent steps to give protection to such children by passing an Act to protect the right of children until they settle in life. The welfare and progress of this country depends on the efforts of next generation so is not our duty to take proper legal care on such destitute ?

Declaration : I do hereby declare that the above mentioned article is not copied and it is my own contribution.