



Impulse Newsletter

Openness to Curiosity

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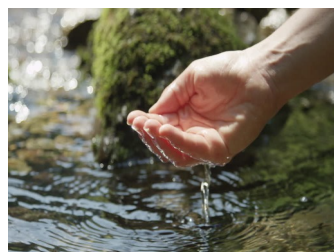
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Is the natural water the right of the natural man or is it the monopoly of the artificial person?

Ever since the origin of Universal Declaration of Human Rights (UDHR), the right to fundamental resource of water has been declared as a human right as an essential component of the right to life. Except air, there are no other requirements of life comparable to water on the Earth. To have access to water is not a choice but a need. Fresh water is a 'gift' from the sky to humans to sustain his existence in this beautiful world. Without food, humans can survive for several weeks but without water they will die in few days. Hence, the very existence of the man rest largely on water.

The Committee on Economic, Social and Cultural Rights of the United Nations Economic and Social Council in its twenty-ninth session (General Comment No. 15), has expressly declared right to water as a fundamental right under right to life and placed several obligations on State parties to ensure and enable the citizens to realize this right, further. It intends to keep third parties away from exploiting water resources But unfortunately privatization of water has

increased and has facilitated third party giants to transfer water across countries to several parts of the world. But it is ironic that even people of countries from where water is imported are struggling to get enough water. Let us take some examples from India itself.



A 22.6 kilometers stretch of *Sheonath* river was leased out to *Radius Water Limited*, a private company, to build a dam and use the water exclusively to the nearby industrial estate. The local farmers living in 13 villages were not allowed to install tube wells within one kilometer radius from the river. Traditional fishing by the villagers also was not allowed. There were restrictions on the cattle in entering the *Sheonath* River. From the *Bhavani* River, a tributary of *Cauvery*, 100,000 liters of water is supplied

daily to *Coca Cola* even as there is widespread drought and water scarcity in Tamil Nadu. Not only that recently government has sold 635 million liters of Ganges water per day to the multinational giant *Suez*. The crucial decisions about water privatisation between donors and the governments are made behind closed doors and without the knowledge of the citizens. Neither the donors (the World Bank, the IMF or ADB) nor borrowing governments disclose information about loan agreements and its conditions. This is contrary to Principle 10 of the *Rio Declaration* that entitles individuals to access information and judicial proceedings, as well as the chance to be involved in decision-making. As water privatization has increased, what has happened is that people are forced to spend an enormous amount of money safe drinking water. Companies are not accountable to the public, fostered



corruption in the name of bidding, led to loss of jobs for the common man and most importantly left poor deprived of safe drinking water. Now public taps too have been closed. Hence, the common man is denied of quality drinking water. This in fact is nothing but the violation of the basic human rights enshrined in the Indian Constitution and international conventions. Thus, to say in the words of former Supreme Court

judge, Justice Rajinder Sachar, "There is nothing above the Constitution. The Preamble says India is a secular, socialist, Republic...and handing over ownership of water to private companies is cheating the Constitution."

To have prosperity there must be sustainable development, to have sustainable development, there must be a happy and dignified com-

munity, to have a happy community, the rights of the common man needs to be protected.

So if the government intends to have a nation with prosperity they are bound to protect the natural rights of the natural man and not the monopoly of the artificial persons.

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**'The leading rule
for the lawyer, as
for the man of
every calling, is
diligence'
- Abraham
Lincoln**



Historical background in wearing Black Robes

" Being a Lawyer is not merely a vocation. It is a public trust and each of us has an obligation to give back to our communities"

-- Janet Reno

Dress code is a "Symbol of Confidence" and a "Symbol of Profession". It forms a proud part of an individual's personality. The professional environment generally is marked by a code of dressing in terms of colour and style. Dress code is a part of dignity and professionalism with little exception. The outfit of judges and advocates with judicial robes seems a mark of dignity and loyalty towards court and justice .

Why do lawyers wear black and white uniform?

Ever wondered why lawyers wear black? Is it some kind of a compulsory rule or

a long going on tradition that the lawyers follow? Let's get to know the reason behind it.

Every profession has a certain dress code and the people belong to a particular profession are recognized by their attire. Such as doctors are recognised by their white aprons, engineers by their helmets and so on. In this way, lawyers are identified by their black and white attire. Though the colour of lawyer's attire is the same, lawyers have a dress code that differs from country to country. It is considered that lawyers have one of the most elegant dress code compared to other professions. Lawyers are considered as one of the best dressed professionals. Whereas in some countries like Canada, the uniform for lawyers is a red and white dress. But in most of the countries, the dress code is white and black. A white shirt

and black trousers and a coat with a white neck band are the common attire for lawyers. We often wonder about the logic behind the black and white dress code.

In India, the Advocate's Act 1961 makes it mandatory for advocates appearing in the Supreme Court, High Courts, Subordinate Courts, Tribunals or Authorities to wear a dress that is sober and dignified and since then we have been following the British constitution it was never changed in India even after the British left. Also, in India the Advocates Act lays down details of the dress code, but aberrations started surfacing when some women started wearing printed saris in court. Women lawyers in India can wear saris, salwar and now trousers, but certainly not jeans. They are not expected to



*It is not what
a lawyer tells
me I may do;
but what
humanity,
reason, and
justice tell me
I ought to do.
-Edmund
Burke*

wear loud jewellery or bright lipstick- things that would distract attention in the court room.

Likewise, the dress codes have been modified slightly in other countries as well to conform to local cultural requirements, values and traditions. But till now many countries follow the old traditional dress code of the British i.e, black robe and a wig.

In Afghanistan and Iran, the Chief Justice wears a white gown and black turban. In Australia, court dress varies according to the jurisdiction. In United States, lawyers wear normal business attire in courts of all levels. So it's not a fixed dress code system all over the world .

The history of black coat dates back to the 17th century. The black and white colour is not chosen randomly. There is a valid logic behind the black and white colour code for the lawyers. In February 2, 1685, King Charles died. People began wearing a black and white gown as a gesture to mourn his death. From that time this uniform for lawyers is designed. Since that time white and black dress has become an official dress code for the lawyers.

Why black and white colour?

Choosing a black colour for the lawyer's uniform has two

reasons. First of all, in the olden times, there was no availability of dyes in large quantities. The purple colour was signified to royalty, so the only fabric colour left was black. Another reason behind this is, black is considered a colour of authority and dominance. A person in a black coat looks more powerful and impactful. Also black colour represents submission to a certain thing. As priests wear a black coat to show their submission to God, lawyers wear the black outfit to show their submission to justice. Black is a prominent colour that offers sheer elegance.

The dress code is not merely a status symbol, but brings out discipline among lawyers and gives them the confidence to fight for justice. The dress code also differentiates the lawyers from other professionals.

But just think about the lawyers in Black in India during summers. Even ordinary people, wearing white or light shade clothes perspire heavily in temperatures hovering between 38 and 48 degrees Celsius. One can easily imagine the plight of lawyers, attired in black coats.

It would not be out of

place to mention that in most cases, courtrooms and the adjoining places only in superior courts are air conditioners available. Other courts that constitute the majority continue to function in the old fashion, served by air coolers subject to availability of water.

The same way, the comfort of air conditioned chambers is enjoyed by only privileged advocates who function from officially allotted rooms or shared accommodation in metro cities. But in most of the districts, many lawyers sit under tinned or thatched roofs and even under trees, swept by hot winds- and don't forget, wearing a black coat.

In conclusion, it was a culture that started from Britain and passed around in remaining world that we later on can term it the better way as, Lawyers wear black coat so that they have to defend the case of each of the side and black is the colour of defence. To say that law is blind. To say that law is only based on weight of evidence and not on colours of people.

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Organ Trade: an Unethical Business



"The value of life is not in its duration, but in its donation. You are not important because of how long you live, you are important because of how effective you live". - Myles Munroe

The Sydney Declaration in 1968, accepted and recognised for the first time brain deaths and during the early seventies many countries started their setting the legal framework necessary to establish brain death, followed by organ donation. The legislative foundation for brain death and organ donation in India was developed through the Transplantation of Human Organs Act (THOA) 1994 and further amendments in 2011 and rules in 2014. This Act established a transparent structure of legal framework to support the much-needed cause of organ transplantation in India. Even after the laws were framed, such laws were not able to control the commercial organ transplantations.

The huge demand and low supply of organs in the United States has widened over the years. This has resulted in vast flow of patients traveling abroad for transplant surgery. The countries with weak regulatory mechanisms were driven by the market forces and such countries include India, Iran, China, Pakistan, Philippines, Brazil, Turkey, Moldova, Ukraine, Russia, Bulgaria, and Romania.

In the statement on the sale of organs the World Health Organization (WHO) clearly states that the sale or the trade in human organs violates the Universal

Declaration of Human Rights as well as its own constitution: "The human body and its part should not be subjected for any commercial transactions. Accordingly, giving or taking payment for organs should be prohibited." The WHO instructs the physicians that they should not transplant organs "if they reasonably suspect that the organs concerned have been involved in or part of any commercial transactions."

More recently, the representatives of the world transplant community met in Istanbul and discussed about the growing transplant donation commerce and transplant tourism. It defines 'Transplant commercialism' as the policy or practice in which an organ is treated as a commodity, including by being bought or sold or used for material gain. In an editorial in Lancet on this subject, it says that "The success of organ transplantation as a life-saving treatment does not require—nor justify victimizing the world's poor people as the source of organs for the rich."

In a country like India, where the deceased dona-

tion rate is abysmally small, there is a need to seriously explore this option and seems to be the way forth to our problem of organ shortage and to rein commerce in organs. In order to curb the commercial transplantation of organs the supply of organs can be increased by minimizing the wastage of organs.

Due to the dominance of myths surrounding brain death and the lack of awareness and knowledge in India, the majority of people is not taking up this noble cause for the benefit of others. The alarming statistics in the Indian context is as follows:

Nearly 1.5 lakh of the total number of brain deaths occur due to accidents every year. IC bleed and brain tumors are other causes of brain deaths which would potentially add the numbers.

There is a need of 200,000 kidneys, 50,000 hearts and 50,000 livers for transplantation annually. There would be no requirement for a living person to donate organs even if at least 5% - 10% of all brain deaths are harvested properly for organ dona-



tion.

The organ wastage situation is the most severe in cases of hearts.

Due to

numerous issues such as increasing cost and deficiency of expertise in different cities, hearts are often wasted in India. The active participation of National Organ and Tissue Transplant Organization, the organ utilization can upgrade the situation to a better level, and the distribution Pan India is much better with reduced

wastage.

The Transplantation of Human Organs Act, passed in 1994 defines about the regulation of removal of human organs and its storage. The Act also deals with the regulation of transplantation of human organs for therapeutic purpose and for the prevention of commercialization of human organs.

The organ donor card is only an expression of a person's willingness to be a donor and it is not a legal document. In India, at the time of organ donation, the final decision of transplantation of organs is taken by the family of the patient. This is situation is something that should change.

Inorder to reduce the commer-

cialization of organ transfer ,the supply of organs must be increased by reducing organ wastages and the laws against commercial transfer of organs must be implemented properly in the most effective way. The power of the state must be extended to harvest organs from every brain dead persons inorder to ensure equitable distribution and to minimize commercialization. NGOs and social media can play a vital role in making people aware and more people must be attracted to take up this noble cause for the benefit of others without the involvement of any Commercial element.

JOSEPH CYRIAC

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Scrapping of Article 370: a brief analysis

On 5 August 2019, a remarkable change has been recorded in the poilitical history. It simply refers to an end of 'positive discrimination'. Article 370 has been scrapped by the government. The Article 370 which comes under Part XXI of the Constitution of India which deals with Temporary, Transitional and Special provisions, granted Jammu and Kashmir a special autonomous status. It allows the state to have its own Constitution, separate flag and Independence over all matters except foreign affairs, defence and communications. The President's notification of the Constitution Order of 2019 amended Article 370 of the Indian Constitution and repealed its 65 years old predecessor. By the

order the whole States of the country come under one law, the Supreme Law of the Land, ie the Indian Constitution. The order of 1954 stipulates the separate status of Jammu and Kashmir, their special privileges etc. By junking the 1954 order, the notification takes away the special rights and privileges enjoyed by the residents of Kashmir and they began to enjoy the same rights and same facilities as their fellow citizens in the rest of the country. The change led to the unity and integrity and can be called as one country .

The special rights as embodied in the article 370 means the resident's of the state were lived under a separate set of laws which in-

cludes ownership of property, citizenship, fundamental rights etc and they were also given a special status of permanent residents. Article 35A allows the Jammu and Kashmir legislature to define permanent residents of the state. As a result of this Indian citizens of other states could not purchase land or property in Kashmir.

While tracing back to the history of Article 370, On attaining independence, British India was divided into two dominions of India and Pakistan. Jammu and Kashmir was the only state which



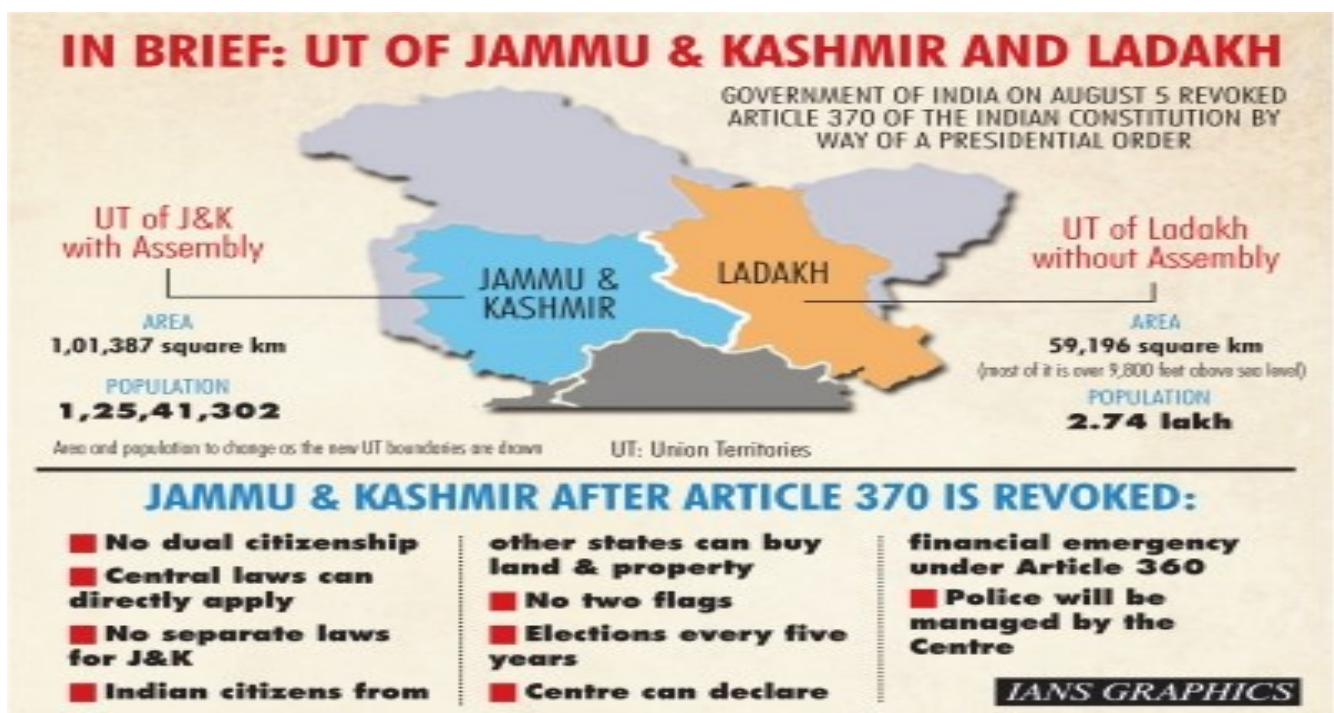
which shares its border with three countries, India, China and Pakistan. On making Union, about 565 native states had chosen to integrate fully with Indian Union but Jammu and Kashmir stood separate. Later the Kashmir was attacked by a large number of armed tribesman, forcing Hari Singh, the ruler of Kashmir to write a letter to Governor General, Lord Mountbatten, asking India to provide military aid. Attached to this letter asking for aid was the instrument of accession to India, which was signed by Singh. Mountbatten signed the instrument on 27 October 1947. As per the document however, only defence, external affairs and communications would be handed over to the government of India, while the control over all other sectors was to be retained by ruler, under the Jammu and Kashmir Constitution Act, 1939. These conditions were peculiar to Kashmir's accession to India. After the presidential order, all the clauses of Article 370 except clause 1 to be inoperative and an Act was passed called Jammu and Kashmir Reorganisation Act by the Parliament, enacting the division the state of Jammu and Kashmir into two union territories to be called Union Territory of Jammu and Kashmir and

Union Territory of Ladakh.

It is stated that the scrapping of Article 370 was considered as the first step towards the betterment of the state. Even though the step was made under a good motive, the mode of implementation was found to be wrong. As a precautionary measure the government of India had shut down all the phone lines and internet services in Kashmir valley ahead of the announcement and a ban imposed on all public gatherings. JK's prominent leaders, Omar Abdullah, Sajjad Lone and Mehbooba Mufti were under house arrest as the bill for abolition of Article 370 was passed in Rajya Sabha.

The residents of J&K were feared that the scrapping of Article 370 may hamper their local business and then be a threat to their livelihood. It seems to be a concern for them. The scrapping of Article 370 of the Indian Constitution is indeed a big decision. Let us hope that action will put the state in track of growth and prosperity. Majority of the Indian population is hopeful that this would bring about a positive change in the state as well as the country as a whole.

ANNSMARIA ANTONY
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Campus Buzz



**Moot Training by
Dr. Jacob Joseph
(Assistant Professor
NUALS)**

-11-07-2019

**One day workshop on
Research Methodology
and Article writing by
Dr. Aneesh V. Pillai
(CUSAT)**

-15-07-2019



**An Orientation Class was conducted
by the Anti Ragging Squad of
Co-operative School of Law**



**Inauguration of the legal aid society
by the principal Dr. V S Sebastian**

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First Year Students Welcome - 01-08-2019



**Orientation class to first years by
Mr. Pandiraj**



**Introduction to law by
Mr. Harindranath
(Former Law Secretary)**



IMPULSE NEWSLETTER

Openness to curiosity

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