
LITERATURE: A FORM OF LEGAL EDUCATION

Swarangi. Vikas. Bhagwat, BBA.LLB, IFIM Law School, Bangalore

INTRODUCTION

Gulzar sahab's ghazals and Daffodils by William Wordsworth is my kind of literature. These pieces of writings have been interpreted by my younger selves at various instances of life and I still go back to these when times are hard for me. Margaret Atwood has provoked my ability of thought to such an extent that my research paper analogically connects her novel 'The Handmaid's Tale' to the 21st century era which gives me a glimpse of the 1985 world.

The Handmaid's Tale is the narration of what a heinous living experience one can go through if one has the will of survival. It is a novel written in a dystopian era which portrays the torture and injustice faced by people then. The novel is set at a time when there was a sudden decline in fertility rates as a result of sexually transmitted diseases and environmental pollution after the civil war in the United States of America. The Government of Gilead established a totalitarian and a hypothetical Christian form of governance in which the laws from the Old Testament (a set of books containing laws maintained by Christian community) shall be imposed upon the modern society. The people who withheld the power to rule the citizens of the United States of America were believers of absolute patriarchy and communism. As the number of fertile women were less than the ones who could not bear children, the ones who could get pregnant easily were kidnapped and were forced to engage in sexual intercourses with officers of a high rank so that they, along with their infertile wives would have an heir and the power of ruling the state would not be given to anyone else.

The 21st century is not anywhere close to the fairy-tales that were recited to me by my grand - mothers and also by my mother. As a budding lawyer, the experiences that I have come across while researching have been exhibiting inhumanity in it's worst form. Be it Jyoti Singh's urf Nirbhaya's gang rape case, the attacks of 26/11 witnessed by the citizens of Mumbai, the groping of my breasts by a middle aged man in a local train, the angry look that he gave me after my retaliation by punching him in the stomach are all crimes which have been evident in a society which implies the presence of educated and sensible citizens. As a citizen of India I

possess the right to freedom of speech and expression as under article 19 (1) (a) of the Constitution of India which enables me to express my opinion through this research paper.

THEMES OF UTMOST CONCERN FROM THE HANDMAID'S TALE

VIOLENCE :

This is a basic method of exercising control over a person or a group of people. The strategy and the forms of violence used to keep people under control by the Government of Gilead varied with respect to every individual. For example, they kidnapped an eight year old girl named Hannah who was the daughter of June and they also shot dead June's husband Luke. They did this so that June would surrender to them and serve as a handmaid (a fertile woman who's job is to have a sexual intercourse with officers of high command and bear their children as the wives of the officers are infertile). This was all against the will of June but she was forced to do what the Government officers said.

Another example is one that is evident even today wherein Jayesh Rawal from Vadodara was brutally beaten up by his girlfriend's (Arti's) father, Kalidas and few other members namely Kiren, Mohan and Ramesh from Arti's family. Jayesh was also beaten up on his private parts which eventually resulted in his death for being in touch with Arti inspite of constant warnings from her father for doing so¹.

PATRIARCHY:

Who gave 'society' the authority to decide which sex is inferior than the other ? This given authority had given rise to numerous unpleasant scenarios in the life of June and many other independent women like her. The women working in June's office that is her colleagues and bosses were ordered by the Government of Gilead to be fired then and there. Women were not allowed to perform bank transactions, operate the cards issued by their respective banks and were also forbidden to withdraw/deposit cash from/into the bank. The male kinships who were directly related to them were allowed to perform all these transactions on a day-to-day basis. Young girls and women were not allowed to obtain education. All these instances attempted to inculcate a sense of male superiority in the society.

¹https://timesofindia.indiatimes.com/city/vadodara/youth-tied-to-tree-beaten-to-death-over-love-affair/articleshow/87787209.cms#_ga=2.148943414.1899140660.1642510700-amp-P4crqBCtq5Xk4Zdpf10E9Trfgt3uXhv5DqWzURyG14bzhRNc61eMWwxZRRJW1Xdd

In the Hindu community the rituals performed by reciting Sanskrit shlokas during a puja or any other spiritual ceremony are performed by males of the family as they are considered to be superior than the female sex. Even in the Muslim community women are not allowed to be present where a dead person is buried because they are considered weaker than the male sex. If a woman can survive the nine months of pregnancy and bear the labour pains during the delivery then death is nowhere close to breaking her completely. A human loss is a great one but a woman is definitely capable of attending an entire funeral and getting back to life. I am a woman, I have experienced deaths of immediate family members at a very young age and I have also seen them burn to ashes in the crematorium. I am strong enough to survive from this loss and stronger to write about it as well. These practices of patriarchy are evident even today in areas where there is no education and there is lack of awareness.

HATRED AGAINST THE LGBTQ+ COMMUNITY :

The individuals who identified themselves as Lesbian, Gay, Bisexual, Transgender, Queer and the further classified genders like pansexual (a person who is attracted to any person irrespective of their gender and biological sex) , intersex (people who are born with reproductive or sexual anatomy that is neither male nor female) , asexual (a person who is not sexually attracted to any gender and has no sexual desires) , unsure (the questioning of one's sexual orientation, sexual identity, gender or all of them) , polyamory (the practice of having intimate relationships with more than one partner, with the informed consent of all the partners involved) , etc were not respected and accepted in the 1985 novel written by Atwood. Ofglen/Emily, who was June's friend was a lesbian. She was married to a woman and had a daughter who was 5 years old. Just like June, Emily was also forced to work as a handmaid but her gender identity was a secret to the world except June. Eventually when the Government officials of Gilead found out about the gender identity of Emily, they performed a medical surgery on her which resulted in the removal of clitoris (a female sex organ present in the upper part of the vaginal opening) from the vagina. It is due to the presence of clitoris that a female body has the desire to engage in a sexual activity with another human being. Due to its removal, the Government of Gilead ensured that Emily did not have any kind of sexual desires which resulted in she not having a sexual intercourse with any other woman since they were against the LGBTQ+ community.

Even after the abolition of Section 377 of the Indian Penal Code which criminalises the indulgence in a sexual activity or sexual intercourse between two men in India on 6th September

2018 by the Honourable Supreme Court of India, there are crimes committed against the LGBTQ+ community even today. I have to travel by local trains to reach college every morning. I very frequently see at least one transgender begging in the compartment of the local train. I see people making angry expressions when transgenders pass by them, I see them being inhuman with another human being just because their desires and mentality is uncommon. People from the LGBTQ+ community also need jobs for survival but they are unemployed because of the narrow mentality of heterosexual people. There are companies who are employing people of this community and also some schools and colleges giving them admissions so as to educate them, but the ratio is low which is a major concern.

TAKING AWAY OF RIGHTS FROM CITIZENS:

Any person from a non-legal background is usually a stranger as to what are his/her/their birth rights which results in the violation of the same and people do not raise voice against this violation. Margaret Atwood has very clearly explained this in her novel through certain instances. The division of people into classes based on the profession allotted to them resulted in a particular dress code to be followed by the people. The handmaids were supposed to wear long, loose, red dresses which symbolized to them being fertile. These red dresses also helped the Government to spot them out in a crowd in case they tried to escape. The wives of the commanders wore dresses of teal colour which is a shade closer to blue. This colour expressed the sadness, grief and depression that these women went through due to not having a voice and power and also the mental trauma they went through due to being infertile. These women were not allowed to disobey their husbands and if they did so, they were punished. The marthas who were the domestic servants who took care of the house then, wore pale, dull green gowns similar to a surgical gown. This shade of green symbolises good health, nature and healing. These women often took care of the women who bore children and also knew how to raise children. So because of these colour schemes the people in the United States of America were unable to wear their choice of clothing².

Forcing a woman to bear children against her will is violating her right to privacy under the right to life and personal liberty as under Article 21 of the Constitution of India, which was done to June. She was forced to have a sexual intercourse against her will and was also forced to bear his children in her womb for 9 months against her will which is totally unacceptable

² <https://vocal.media/geeks/the-handmaid-s-tale-meaning-behind-the-colors-the-women-wear>

because any authority or Government cannot take away the right of privacy away from any citizen of that particular country.

June's name was also changed since the time she was brought to the cell where she was trained as a handmaid along with other fertile women. Her name was changed to 'Offred'. This also reflects the violation of right to privacy of a person.

Female infanticide and abandoning of new born babies with a type of abnormality or disorder is still a common practice in rural parts of India. The mentality of wanting a son as a child so that the name of the family is carried to the next generation is not an acceptable excuse for forcing the mother to abort the female foetus. Many a times, the baby girl is born and then killed just because she was born as a girl and not a boy. According to the Medical Termination of Pregnancy (MTP) Amendment Act, 2021 a woman can now terminate her pregnancy up to 20 weeks on the advice of one doctor, irrespective of her marriage status and with only her consent that is the 'mother's' consent. Also, in case of special categories of women such as survivors of sexual abuse, minors, victims of rape, and differently able women, etc the termination period of the pregnancy is 24 weeks. Under this act, the medical practitioner has to maintain confidentiality of the details of a woman seeking the termination of pregnancy under him/her/them except to a person authorized by law. The breach of this rule is punishable with imprisonment up to a year, a fine, or both.

In spite of having such amendments made by the concerned authorities, the cases of forced abortions or forced pregnancies are still prevalent because citizens are not aware of their rights due to lack of education.

RAPE AS A CEREMONY:

The sexual intercourse that was forced on June and her commander multiple times was rape. It was a mental as well as physical torture for June, the commander and his wife, Mrs. Serena Joy. Having a sexual intercourse with someone is an act of pleasure unless it is forced. Once it is forced on someone then it amounts to rape which is what happened with the handmaids. A chart was prepared which consisted of the menstruation cycle and body changes of June. According to this chart, the ovulation days of June were selected and on those days the sexual intercourse between June and the commander (Mr. Waterford) took place in presence of Mrs. Serena Joy who was also a part of the process. Since this act was forced and there were no emotions involved on the part of June as well as Mr. Waterford, June did not become pregnant

in the first try. The involvement of emotions is very crucial here since getting pregnant is a mental, biological as well as physical process. Even if one does not want to get pregnant, indulging in any sexual activity has to involve emotions in order to experience the pleasure derived from it. These type of ‘ceremonies’ as they were called were the cause of mental trauma, sadness and anger of the people whose bodies were controlled by the Government of Gilead.

PERSONAL CHOICES :

As a young woman, feeling the desire to have a sexual intercourse with a person who I am attracted to is not wrong. It is a biological need which needs to be satisfied from the time a human body experiences puberty till the approximate age of 50-55 years. Having a sexual intercourse with someone or not having it at all is every individual’s personal choice which the society needs to respect and not interfere in the same. Humans have the birth right to have sex with another human being because it is a process through which another human being is born. So the society is not in a position to decide when a particular person should have sex or with whom he/she/they should have sex. The consent and will of both the partners is very important when indulging in such an activity. Without consent the penetration of one human being into the body of another human being has no meaning and is known as rape which is a punishable offence as under Section 375 of the Indian Penal Code of India. There are exceptions to having a sexual intercourse such as people who are married to each other cannot have sexual relations outside their marriage except for some religions who permit it, the minimum age of having a sexual intercourse is 18 for women and 21 for men in India, etc. The age restrictions are imposed because the complete growth of the mind and body is necessary so as to deal with the effects and changes that occur in the body after the sexual intercourse is over. It is scientifically believed that a human body attains physical and mental maturity at the age of 18 and 21 which is important before indulging in any sexual activity. A person who has attained the maturity of having a sexual intercourse with someone should also have the maturity of understanding the changes that his/her/their body can go through and also the body of his/her/their partner. For example, a female partner getting pregnant, pain in the private or reproductive organs due to friction during sex, sudden blood flow due to breaking of hymen in case of women, feeling tired and exhausted due to the use of energy present inside the body, red marks on the skin especially on the neck, breast and chest due to hickeys, resulting pain of the area in which these marks are present, the eventual colour changes that these red marks go through, etc. Until and

unless the mind and heart is prepared to go through all these changes, no person should indulge in any sexual activity because the consequences of being unprepared are unhealthy for both partners involved.

Sometimes societal norms, culture, and the common thought process of individuals create a dilemma with regard to what is right and what is wrong. Since it is not a societal norm or is outside the pursuit of a particular culture does not mean that the feelings or thoughts of a particular individual are wrong. Emotions can be expressed in the form of words, paintings, dance forms, acts, crafts and so much more that we are not aware of. If these ways of expressing emotions can be accepted then why not a different thought process? The experiences of every individual are varied and hence the thought process is also different. The expectation of society that a person will/should behave in a particular manner or should follow certain customs just because it is a norm is not acceptable. The youth of today demands answers to questions that they feel are unanswered, be it pertaining to customs, traditions, laws, morality or culture. Every person has a right of his/her/their body and the society holds no authority to be the dictator of it. Every person is capable enough to raise a voice against violence, crimes, injustice, patriarchy, mental and physical torture, infanticides, rude behaviour and is also capable of educating people that morality is not what the world defines but what you define for yourself.

CONCLUSION

The above mentioned paragraphs have been written in order to establish a similarity between the world of 1985 and the 21st century. There have been significant changes in policies, amendments in laws and broadening of the mindset of people but the crime rate is still high which is a major concern. The mentioned examples have been referred to from reliable sources which I have mentioned in the footnotes³.

³ https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1503980

