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The Pursuit of Happiness: How Indian Law Support or Hinder the Happiness Index

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The World Happiness Report is an annual publication that ranks national happiness based on respondent ratings of their own lives, correlated with various life factors. It is published by the Sustainable Development Solutions Network, a global initiative of the United Nations. The report aims to identify critical factors that influence well-being to help governments develop policies that promote happier societies. In 2022, India ranked 136th on the list of 146 countries, lagging behind its South Asian neighbors. India's happiness index is affected by poverty, inequality, unemployment, health concerns, social turmoil, and political instability. The government has implemented various measures to enhance the welfare of its populace, including the Ayushman Bharat Scheme and the Swachh Bharat Abhiyan. However, economic growth alone is inadequate to assure the well-being and happiness of the populace. Since happiness is subjective, its measurements should consider individuals' inner strengths and their satisfaction with their external surroundings. Moreover, despite the evidence that positive psychology approaches can intensify happiness, they have not yet been integrated into any happiness models. Policymakers must prioritize other elements such as social support, life expectancy, and the ability to make life choices to increase the country's overall happiness index. The legal framework in India reflects the various social, political, economic, and cultural factors, and the government imposes a set of principles and obligations called "law" to ensure the welfare and justice of society. The role of Indian law in promoting happiness is essential for creating a happier society.

Keywords: *national happiness, respondent ratings, life factors, sustainable development, law, society.*

INTRODUCTION

“Happiness consists more in the small conveniences of pleasures that occur every day, than in great pieces of good fortune that happen but seldom to a man in the course of his life.”

- Benjamin Franklin¹

Over 2,500 years ago, renowned figures including Confucius, Buddha, Socrates, and Aristotle launched the psychological and intellectual quest for happiness in China, India, and Greece.² The discoveries of these ancient philosophers and the contemporary ‘Science of Happiness’ are strikingly comparable. In ancient Greece, happiness was linked with virtue, and while the definition of happiness has been subject to change throughout history, it is now widely regarded as a subjective factor, impacted by various factors such as comfort and freedom. It is important to note that social conditions also play a significant role in shaping our virtue, which can ultimately influence our happiness. The World Happiness Report, which measures how people assess their own lives in over 150 countries based on global survey data, is celebrating its 10th anniversary this year. Despite the darkness brought on by the pandemic, the 2022 edition of the report sheds light on a positive development, revealing an upswing in social support and kindness. While we confront the challenges of disease and conflict, it's important to keep in mind the fundamental human aspiration for happiness and the potential of individuals to come together and support one another during trying times.³

OVERVIEW OF THE HAPPINESS INDEX

The World Happiness Report is a publication that has articles that rank national happiness, based on respondent ratings of their own lives, which the report also correlates with various

¹ Benjamin Franklin, ‘The Way to Wealth’ (*Texas*, 1758) <<https://minio.la.utexas.edu/webeditor-files/coretexts/pdf/175820franklin20wealth.pdf>> accessed 20 February 2023

² ‘History of Happiness’ (*Pursuit of Happiness*) <<https://www.pursuit-of-happiness.org/history-of-happiness/>> accessed 20 February 2023

³ Helliwell JF et al., ‘World Happiness Report 2022’ (*World Happiness Report*, 18 March 2022) <<https://worldhappiness.report/ed/2022/>> accessed 23 February 2023

(quality of) life factors. The report is a publication of the Sustainable Development Solutions Network, a global initiative of the United Nations. April 1, 2012, was the first time the report was published and it quickly garnered the eyes of people from throughout the world. It was the foundational text for the UN High-Level Meeting: Well-being and Happiness: Defining a New Economic Paradigm.⁴ It accentuated the state of world happiness, factors responsible for its causation, and policy implications highlighted by case studies.

In 2013, the second World Happiness Report was issued, and in 2015 the third. Since 2016, it has been issued on an annual basis. The U.N. General Assembly adopted Resolution 66/281 proclaiming March 20 as the International Day of Happiness to be observed annually. The World Happiness Report is released every year on the same date. In the reports, experts expound on the reports from diverse fields like economics, psychology, national statistics, etc on how calculations of good health or well-being can be used effectively to assess the progress of nations, and other topics. Each report is broad and is therefore usually divided into many segments or chapters that talk at length concerning bliss, including mental illness, the objective benefits of happiness, the importance of ethics, policy implications, and links with the Organisation for Economic Co-operation and Development's (OECD) approach to measuring subjective well-being and other international and national efforts.⁵

Bhutan has a self-devised Gross National Happiness Index that assesses the happiness and well-being of the population using 33 indicators under 9 domains. World Happiness Report holds an integral value as it highlights some conclusions: - It is not implausible to assume that poor perception of government despite high-income levels can co-exist. Over time, happiness is an important factor to keep a check on the functioning of nations and corporations. Finding the

⁴ 'Defining a New Economic Paradigm: The Report of the High-Level Meeting on Wellbeing and Happiness: Sustainable Development Knowledge Platform' (*United Nations*)
<<https://sustainabledevelopment.un.org/index.php?page=view&type=400&nr=617&menu=35>> accessed 23 February 2023

⁵ S Ghosh, 'Explained: What Is the World Happiness Report?' (*The Hindu*, 26 March 2022)
<<https://www.thehindu.com/news/international/explained-what-is-the-world-happiness-report/article65240772.ece>> accessed 17 February 2023

main factors influencing well-being is the report's objective. This knowledge is expected to assist nations in formulating strategies targeted at creating happier societies.⁶

HAPPINESS AS A KEY INDICATOR OF SUSTAINABLE DEVELOPMENT GOALS

In September 2015, at the United Nations Sustainable Development Summit, Prime Minister Modi emphasized that India's development goals align with the Sustainable Development Goals. He further asserted that India's national plans are not only ambitious but also focused on sustainable development, and given that one-sixth of humanity resides in India, this progress would have a significant impact on the world and the planet. To quote him, *'Much of India's development agenda is mirrored in the Sustainable Development Goals. Our national plans are ambitious and purposeful; Sustainable development of one-sixth of humanity will be of great consequence to the world and our beautiful planet.'*⁷

India has played a remarkable role in building up sustainable development goals along with their implementation. The country played a vital role in laying nationally recognized goals to measure progress and achieve sustainable development goals and also engaged in providing financial support to the United Nations' trust for this purpose. India started planning for SDGs long before it was finalized. India has also contributed to Voluntary National Reviews (VNRs), which track progress and achieves sustainable development goals by use of surveys and encourage its adoption.

India's contribution to SDGs can be seen in its institutional, novel, and diplomatic approach. The country has helped in the formation and execution of international norms to be adopted by member nations and also constantly associated itself with G77 countries to help them comply with the SDG norms. India also contributed to the development of a consensus agreement, which will benefit all the nations and help them to act. India's primary target has been to uplift the social, financial, political, and environmental matters of the UN and to push the outline and

⁶ 'Happiness Index: What Is It and How Does It Work?' (*Tracking Happiness*, 28 January 2023)

<<https://www.trackinghappiness.com/happiness-index-2018/>> accessed 17 February 2023

⁷ United Nations High Level Forum, *Voluntary National Review Report on Implementation of Sustainable Development Goals* (2007) <<https://sustainabledevelopment.un.org/content/documents/16693India.pdf>> accessed 22 February 2023

principles that every nation will have to follow. The participation of India has been to such an extent that it has caused the United Nations to adopt the regulations on similar lines as laid by India.

The implementation of sustainability began with the Vellore Citizen Welfare Forum v Union of India case, which stated that the precautionary principle and polluter pay principle are the pillars of Sustainable Development. Similarly, the Narmada Bachao v Union of India⁸ case established that the progression of development should only be on such a scale, which can be supported by nature with the least alleviation. The Indian Council for Enviro legal action v Union of India⁹ case as well it emphasized that evolution should not occur at the price of causing environmental destruction and that equilibrium should remain between economic and ecological development and make sure both are constructive.¹⁰

While speaking at a seminar on People, Planet, and Profit organized by the Indian Chamber of Commerce on July 2018, Pranab Mukherjee, the former president of India, explained its low ranking of India in the global list of the happiest Nations 2018 UN report.¹¹ India was ranked 133rd position on the index, a drop of 11 places from last year's 122nd rank. The president believed that the lack of a comprehensive approach and economic development had placed the country in this position. *'Despite our country's economic progress, India is constantly going downwards in the happiness index. It has dropped down to 133rd place in 2018. This indicates a lack of a holistic approach toward development. The quest for happiness is closely tied to the quest for sustainable development which is a combination of social inclusion and environmental sustainability.'*¹¹ He suggested that an improvement can be made by striving for sustainable development and focusing on the *triple bottom line* i.e. working on social, environmental, and financial growth. *'A narrow vision focus on economic development may have given us a better GDP and increase in per capita income but moved our focus from environmental sustainability, social welfare, and emotional and mental wellbeing of our people. These are the primary reasons for our ranking in the world happiness index year*

⁸ *Narmada Bachao v Union of India* [2000] 10 SCC 664

⁹ *Indian Council for Enviro-Legal Action v Union of India* AIR (1996) SC 1446

¹⁰ Muskaan Garg, 'Sustainable Development Goals' (*iPleaders*, 05 March 2022)

<<https://blog.iPLEADERS.in/sustainable-development-goals/>> accessed 22 February 2023

after year.¹¹ India has progressed tremendously on an economic scale in the last seven decades. However, in the current scenario, the center of attention should be ecological sustainability, social welfare, and the physical, mental, and social well-being of the citizens. *'The recent World Bank report has placed India above France in terms of the value of the economy in US dollar terms. But obviously, it did not happen in the last couple of years or even in a couple of decades. It has happened over seven decades,'* he added.¹¹

METHODOLOGIES FOR MEASURING THE HAPPINESS INDEX

The report typically awards rankings to 150 nations based on several variables, including:

- Real social support;
- GDP per capita;
- Freedom of choice in one's life;
- Healthy life expectancy;
- Perceptions of corruption;
- Generosity.¹²

As claimed by Raj Nayak, the initiator of happiness. me and House of Cheer Networks, *'There is abundant evidence suggesting that happy employees in an organization lead to better health, reduced attrition rates, higher engagement and connectedness, improved collaboration, increased creativity, and enhanced productivity.'* He further added that *'All of these positive factors have a direct impact on the company's financial performance.'*¹³ The World Happiness Report has alienated its meaning in the past few years. The word "Happiness Index" is not even found in the 2018 World Happiness

¹¹ 'Pranab Mukherjee Explains Why India Ranks so Low on Happiness Index' (*Business Standard*, 27 July 2018) <https://www.business-standard.com/article/news-ians/lack-of-sustainable-development-pushing-india-downwards-in-happiness-index-pranab-118072601544_1.html#amp_tf=From%20%251%24s&aoh=16770684103653&referrer=https%3A%2F%2Fwww.google.com&share=https%3A%2F%2Fwww.business-standard.com%2Farticle%2Fnews-ians%2Flack-of-sustainable-development-pushing-india-downwards-in-happiness-index-pranab-118072601544_1.html> accessed 23 February 2023

¹² 'World Happiness Report 2022: United Nations' Sustainable Development Solutions Network' (*BYJUS*, 21 October 2022) <<https://byjus.com/free-ias-prep/world-happiness-report>> accessed 18 February 2023

¹³ 'Right Thoughts & Words Have the Power to Open Minds and Make People Happier.' (*Happyness.me*) <<https://happyness.me/blog>> accessed 22 February 2023

Report at all. The report now determines the same concept as that of a *Happiness ladder*. This ladder is known as the Cantril Ladder.

The concept of the Cantril Ladder has helped in many different educational purposes to determine people of how closely they perceive their life as fulfillment or joy. More than a million people worldwide have been asked this question, and the answers have been used to create the yearly Happiness Index. The Happiness Index - or Life ladder - is simply calculated by averaging the answers to this Cantril Ladder to a single number.

The World Happiness Report sources its data from the Gallup World Poll. Gallup is the foundation that helps in this colossal project. Gallup interviews these people in over 150 countries around the world. Usually, the selection of such people is aleatory, as long as they are registered civilians of the country (non-institutionalized) and aged 15 and older. Each respondent in this happiness survey is asked the same questions in his or her language to produce statistically comparable results. This enormous amount of data is used by the Global Happiness Council - in combination with other data sources - to construct the World Happiness Report.¹⁴

COMPARATIVE ANALYSIS OF THE HAPPINESS INDEX IN INDIA AND OTHER COUNTRIES

In 2012, the inaugural World Happiness Report was issued, and India was ranked 111th among 156 countries.¹⁵ India has since maintained a low ranking on the index relative to numerous other nations. According to the 2021 report, India dropped seven spots from the previous year to 139th among 149 countries.¹⁶ India's happiness index score has remained persistently low over time. In 2019, India was placed 140th among 156 countries¹⁷, while in 2020, it was ranked

¹⁴ Happiness Index: What Is It and How Does It Work? (n 6)

¹⁵ John Helliwell et al., 'World Happiness Report 2012' (*World Happiness Report*, 04 April 2012) <<https://worldhappiness.report/ed/2012/>> accessed 17 February 2023

¹⁶ John Helliwell et al., 'World Happiness Report 2021' (*World Happiness Report*, 20 March 2021) <<https://worldhappiness.report/ed/2021/>> accessed 17 February 2023

¹⁷ John Helliwell et al., 'World Happiness Report 2019' (*World Happiness Report*, 20 March 2019) <<https://worldhappiness.report/ed/2019/>> accessed 17 February 2023

144th among 153 nations.¹⁸ These rankings demonstrate that despite India's economic expansion and development, the nation still trails behind in terms of overall happiness and well-being.

Compared to its South Asian neighbors, India's happiness index is lower. For example, Bangladesh ranked 101st, Nepal ranked 87th, and Pakistan ranked 105th.¹⁹ However, Sri Lanka ranked higher than India, coming in at 129th place.^{19,20} In the global rankings, Finland, Denmark, Switzerland, Iceland, and the Netherlands are the top countries on the happiness index.^{19,20} These countries scored highly in social support, life expectancy, and the freedom to make life choices. Additionally, they have comparatively low levels of corruption and high levels of generosity.²⁰

There are several reasons why India's happiness index ranking is low, including:

- Poverty;
- Inequality;
- Unemployment;
- Health concerns;
- Social turmoil; and
- Political instability.

However, there have been some encouraging advancements in recent years, including:

- An increase in life expectancy;
- Better sanitation;
- Educational access; and
- A reduction in poverty rates.

¹⁸ John Helliwell et al., 'World Happiness Report 2020' (*World Happiness Report*, 20 March 2020) <<https://worldhappiness.report/ed/2020/>> accessed 17 February 2023

¹⁹ John Helliwell et al., 'World Happiness Report 2017' (*World Happiness Report*, 20 March 2017) <<https://worldhappiness.report/ed/2017/>> accessed 20 February 2023

²⁰ 'India Ranks Very Low in World Happiness Report' (*The Hindu Business Line*, 19 March 2022) <<https://www.thehindubusinessline.com/news/india-ranks-very-low-in-world-happiness-report/article65241462.ece>> accessed 20 February 2023

The Indian government has implemented various measures to enhance the welfare of its populace including:

- The Ayushman Bharat Scheme²¹ offers health coverage to millions of underprivileged individuals.
- The Swachh Bharat Abhiyan²² strives to improve hygiene and sanitation nationwide.

India ranks 136th on the World Happiness Report 2022,²³ among the least happy nations despite being one of the world's fastest-growing economies. For the fifth year in a row, Finland tops the list of 146 countries. Other countries in the top ten include Denmark, Iceland, Switzerland, the Netherlands, Luxembourg, Sweden, Norway, Israel, and New Zealand.²³ The report, now in its tenth year, uses global survey data to evaluate how people assess their own lives in terms of economic and social parameters. Although India has improved its position on the list from last year, it ranks lower than neighboring countries like China, Sri Lanka, Nepal, and Pakistan.²³ The report aims to identify critical factors that influence well-being to help governments develop policies that promote happier societies. Happiness has become an important metric for companies, and several progressive workplaces have appointed Chief Happiness Officers.²⁴ Some examples of companies that have appointed CHOs or similar positions include:

Google: Google is one of the most well-known companies that has appointed a Chief Happiness Officer. The company's CHO is responsible for organizing events, activities, and programs that promote employee well-being and happiness.²⁵

²¹ 'Ayushman Bharat' (*National Portal of India*) <<https://www.india.gov.in/spotlight/ayushman-bharat-national-health-protection-mission>> accessed March 1, 2023

²² 'About SBM' (*Swachh Bharat Mission*) <<https://swachhbharatmission.gov.in/sbmcms/index.htm>> accessed 22 February 2023

²³ 'World Happiness Report 2022' (*World Happiness Report*, 18 March 2022) <<https://worldhappiness.report/ed/2022/>> accessed 22 February 2023

²⁴ 'What Is a Chief Happiness Officer?' (*Human Resources*, 30 July 2018) <<https://www.humanresourcesmba.net/faq/what-is-a-chief-happiness-officer/>> accessed 22 February 2023

²⁵ Tia Graham, 'Why Every Company Needs a Chief Happiness Officer' (*LinkedIn*, 20 July 2022) <https://www.linkedin.com/pulse/why-every-company-needs-chief-happiness-officer-tia-graham/?trk=public_profile_article_view> accessed 22 February 2023

Airbnb: Airbnb has a Global Head of Employee Experience who oversees the company's initiatives related to employee happiness and well-being. This includes everything from wellness programs to team-building events.²⁵

Zappos: Zappos, an online shoe and clothing retailer, has a Chief Happiness Officer who is responsible for ensuring that employees are happy and engaged in their work. The CHO organizes events, offers training and development opportunities, and creates a supportive culture that values employee well-being.²⁵

Coca-Cola: Coca-Cola has a Director of Employee Happiness who is responsible for creating a positive workplace culture and improving employee engagement. The company's employee happiness initiatives include wellness programs, flexible work arrangements, and opportunities for career growth.²⁵

Buffer: Buffer, a social media management company, has a Chief Happiness Officer who is responsible for creating a positive and supportive workplace culture. The CHO's initiatives include flexible work arrangements, wellness programs, and team-building activities.²⁵ Overall, companies that prioritize employee well-being and happiness tend to have more engaged and productive employees, which can ultimately lead to greater business success. As a result, the role of the Chief Happiness Officer has become increasingly important in today's workplace.

India's happiness index lags behind other countries, as demonstrated by a comparative analysis. Although economic growth is noteworthy, it is inadequate to assure the well-being and happiness of the populace. To increase the country's overall happiness index, policymakers must hierarchize other elements such as social support, life expectancy, and the ability to make life choices.²⁶

²⁶ 'World Happiness Report 2022: United Nations' Sustainable Development Solutions Network' (BYJUS, 21 October 2022) <<https://byjus.com/free-ias-prep/world-happiness-report>> accessed 18 February 2023

THE ROLE OF INDIAN LAW IN PROMOTING HAPPINESS

The government imposes a set of principles and obligations called "*law*" to ensure the welfare and justice of society. In India, the legal framework reflects the various social, political, economic, and cultural factors. The standard law system has deep roots in India's legal system. The Constitution, statutes, customary law, and judicial decisions of superior courts are India's primary sources of law. Laws passed by parliament may have a nationwide application, while laws passed by state legislatures are generally limited to the borders of their respective states. The separation of powers²⁷, or *tries politics*, is a principle that separates the government into three branches: legislative, executive, and judiciary, to prevent the abuse of power. Although the Indian Constitution does not explicitly mention this principle, it is reflected in various parts of the document.

- The legislature, which comprises the Lok Sabha, Rajya Sabha, and the President, creates laws and oversees the other branches, but is restricted from discussing judges' conduct in the Supreme Court or High Courts.
- The executive branch, as outlined in Part V of Chapter I, governs and implements policies according to the principles of natural justice. It includes the President, Vice President, Prime Minister, and council of ministers, who advise the President under Article 74.²⁸
- The judiciary, which includes the Supreme Court, High Court, and other subordinate courts, interprets the law and upholds justice. Although the executive appoints judges, the separation of the judiciary and executive is established in Article 50 of Part IV. In the case of *Indira Gandhi Nehru v Raj Narain*²⁹, the Supreme Court of our country established a significant legal precedent by upholding both the basic structure and the doctrine of separation of powers. The case centered around the elections for the Prime Minister, in which the constituent body acted as a judicial authority by ruling that the election was valid rather than void. However, this went beyond the scope of their authorized powers.

²⁷ 'Special Report: Doctrine of Separation of Powers' (*Drishti IAS*, 07 January 2023)

<<https://www.drishtiiias.com/loksabha-rajasabha-discussions/special-report-doctrine-of-separation-of-powers>> accessed 19 February 2023

²⁸ Constitution of India 1949, art 74

²⁹ *Indira Gandhi Nehru v Raj Narain* AIR (1975) SC 2299

As a result, it was determined that Parliament, through any constitutional amendment or similar means, cannot assume the role of the judiciary. Therefore, this case served as a reaffirmation and assertion of the principle of separation of powers.³⁰ Additionally, courts cannot examine parliamentary or legislative proceedings, as stated in Articles 122³¹ and 212.³²³³

Law undoubtedly impacts the way we perceive joy; it constructs a sense of morality in us. Although it's a well-aware fact that law and morality do not always coincide. Utilitarianism is a well-known moral theory that centers around the idea that the quality of actions, whether they are good or bad, is determined by their effects. Utilitarians do not adhere to any fixed moral code; instead, they view happiness or pleasure as inherently good and something that should be maximized, while rejecting unhappiness or pain as inherently bad. The most prominent classical utilitarians were Jeremy Bentham (1748-1832) and John Stuart Mill (1806-1873), both of whom were influential social reformers and theorists. Utilitarians prioritize the happiness or pleasure of the majority, even if it comes at the expense of a small minority. This is because, in their view, the only thing that ultimately matters is the outcome or effect of the action, rather than the intentions behind it.³⁴

Law has its origin in external factors; therefore, it's reached through rules and regulations. Morality is born in the mind, it's personal and doesn't usually adhere to society. The law focuses on equality, it promotes harmony, but morality seeks only subjective approval, it's not based on social conditions. Morality has influenced the creation of laws but morality existed in society since even before legal implications were discussed. Punishments inevitably follow if laws are

³⁰ 'Indian Constitution and Separation of Powers' (*Law Teacher*, 16 August 2019) <<https://www.lawteacher.net/free-law-essays/constitutional-law/indian-constitution-and-separation-of-powers-constitutional-law-essay.php#:~:text=In%20Indira%20Gandhi%20Nehru%20v,a%20landmark%20case%20our%20country>> accessed 19 February 2023

³¹ Constitution of India 1949, art 122

³² *Ibid*

³³ Tarini Kalra, 'Indian Legal System: An Overview' (*iPleaders*, 08 July 2022) <<https://blog.iplayers.in/indian-legal-system-an-overview/>> accessed 19 February 2023

³⁴ 'Morality from pain and pleasure' (*Business Ethics*) <<https://philosophia.uncg.edu/phi361-matteson/module-2-what-is-ethics/morality-from-pain-and-pleasure/>> accessed 20 February 2023

broken, but morality can be shaped by the individual mind, they can choose to either torment themselves if they do an act against their subjective morality or simply chose to appropriate it by expanding its definition.

In morality, repercussions are an individual choice. Laws expect to be followed, it demands citizens to act and behave in a certain way it seems as worthy. However, morality does not lay down strict guidelines of how one should behave but is a more personal concept. Morality is something people make personally too even if it goes against the law. It tends to impact your moods as well.³⁵

A. How the Indian Legal System Can Promote Social Cohesion and Community Engagement, Contributing to Greater Happiness

Section 377³⁶ of the IPC criminalizes sexual activity, which is against the nature of any man, woman, or animal, shall be punished with imprisonment which may extend to 10 years, and shall also be liable to a fine. It is been clearly stated in Section 377 that it is a criminal offense and consensual sexual intercourse between two adults of the same sex was barred under the said section, before the 2018 SC judgment. Later on, this issue was taken up in many cases, so that justice can be delivered equally to everyone and Article 14³⁷ of the Indian Constitution to be preserved. The court took into account the arguments put forth in numerous cases by numerous NGOs to legalize Section 377. The Delhi High Court ruled that criminalizing consensual homosexual sex violates fundamental freedoms protected by the Indian Constitution.³⁸ After this High Court decision, homosexuality was decriminalized throughout India. Certain revisions and curative petitions were filed in the court of law regarding this dispute. This matter gathered the attention of the whole nation and the people were curious about the final formulation of the law concerning LGBTQ rights.³⁹

³⁵ Amulya Bhatia, 'All about Law and Morality' (*iPleaders*, 12 February 2022) <<https://blog.iplayers.in/all-about-law-and-morality/>> accessed 20 February 2023

³⁶ Indian Penal Code, 1860, s 377

³⁷ Constitution of India, 1949, art 14

³⁸ *Naz Foundation v Government of NCT of Delhi and Ors* [2009] DELHC 165

³⁹ *Ibid*

Then the final verdict was passed by the court in *Navtej Singh Johar v Union of India*⁴⁰ in the year 2018. Decriminalization was indeed a big step towards progress, but it can't be ignored that it was just one step towards a long road India hasn't covered yet. The legalization of homosexual or same-sex marriage is still under question, it still awaits its verdict. This portrays that though we know homosexuality is common and same-sex couples deserve it as they've been fighting for their rights for too long, it's still not legal to consider them a couple. The social agony the homosexuals go through also impacts the happiness index, and this unhappiness, though moral, stems from the incompetence of current laws. Laws are therefore impacting the social condition; they construct invisible rules about social support.⁴¹

When the law doesn't support you, society treats you as expendable and thus lack of social support arises. The Transgender Persons (Protection of Rights) Bill, 2019 has also sparked great unrest among the trans community and activists. The Bill plays a paradox by saying that transgender persons will have the right to *self-perceived* gender identity, but a change of gender identity in documents cannot be done without a certification by the District Magistrate after proof of a sex reassignment surgery is provided. Not every Trans person wants to undergo sex reassignment surgery, the bill indirectly reduces trans persons to stereotypes. Along with other points, this bill has been also vehemently criticized by the intersex and trans-men communities too.

The act has also been criticized for imposing less punishment for crimes against transgender people compared with punishment for crimes against cisgender people. It was passed by the Lok Sabha on 5 August 2019 and by the Rajya Sabha, the upper house of the Parliament, on 26 November 2019. It has been in effect since 10 January 2020. Sometimes the laws that are passed by the authorities come from a place of lack of understanding, and unawareness of the social-political existence of certain groups.⁴² When such a thing happens, bills like the transgender bills

⁴⁰ *Navtej Singh Johar v Union of India* (2018) 10 SCC 1

⁴¹ 'Decriminalization of Homosexuality' (*Legal Service India*) <<https://www.legalserviceindia.com/legal/article-4396-decriminalization-of-homosexuality.html>> accessed 22 February 2023

⁴² Niharika Puri, 'The Transgender Persons (Protection of Rights) Act of 2019- A Trans Sans Identity?' (*Legal Service India*) <<https://www.legalserviceindia.com/legal/article-7733-the-transgender-persons-protection-of-rights-act-of-2019-a-trans-sans-identity-.html>> accessed 22 February 2023

are passed. It not only impacts social support; it also creates distrust towards the authority in the intellectual members of the society. The law, therefore, directly affects the freedom and happiness of the marginalized community and society at large.⁴³

B. The Effect of Criminal Justice Policies on the Overall Happiness Index of a Society

Trusting the government and not finding the legal body dubious is one of the important happiness factors. The way citizens perceive the government is integral in determining their happiness. This perception could largely be shaped by how people think of an authorized response to their needs or demands or fairness in the laws. During the covid health crisis, the pandemic did not let us become witnesses of some astounding wins, but it did widen the economic gap between the richest and the poorest in India. In 2020, India saw forty new billionaires make their name in the rich category, while 57% of the country's working population was in turmoil and uncertainty of seeing their finances vanish due to the pandemic-related economic crisis.⁴⁴

What is more shocking is that in January, an Oxfam report found that the wealth occupied by the 100 richest Indians during the global health crisis alone, could provide 138 million of India's poorest with help. Such incidents create an image of dishonesty especially when people are always susceptible to billionaires evading taxes through loopholes. Authorities letting loopholes in law remain intact, instead of revising them even to tackle a crisis also makes them look malicious.⁴⁵

UAPA or Unlawful Activities (Prevention) Act remains one of the most controversial laws. It has been termed as 'draconian' by many. Numerous activists have been jailed under this section, many of them caught for little to no reliable evidence. Many of them have not even seen the trial.

⁴³ 'The Transgender Bill Explained' (*The Hindu*, 30 November 2019)

<<https://www.thehindu.com/news/national/watch-all-about-the-transgender-persons-bill/article30122229.ece>> accessed February 22, 2023.

⁴⁴ 'India's Richest 1% Own More than 40% of Total Wealth: Oxfam' (*The Hindu*, 16 January 2023)

<<https://www.thehindu.com/news/national/indias-richest-1-own-more-than-40-of-total-wealth-oxfam/article66381944.ece>> accessed March 1, 2023

⁴⁵ Devrupa Rakshit, 'Why Are Indians so Unhappy?' (*The Swaddle*, 22 March 2021)

<<https://theswaddle.com/why-are-indians-so-unhappy/>> accessed 21 February 2023

But that's not it, even the functioning of it arouses doubts, 67% of activists were acquitted in 2018. *'The UAPA is not meant for convicting people, it is used to detain them, alleged Mihir Desai, senior counsel at Bombay High Court. 'Eventually, acquittals might happen but a considerable amount of time passes by and the person's life is ruined. The burden of proof in usual matters falls on the police but under UAPA, the burden is now on the person accused to prove his innocence.'* Though this is true, the burden of innocence falls on the accused. With such a high rate of acquittal, it's natural to question that perhaps sometimes whom authority deems as the culprit is clouded by many biases too.⁴⁶

Activists like Stan Swamy losing their lives in jail when he had Parkinson's disease is something that can't be ignored too.⁴⁷ It is *lawful* to put people on trial, but it is quite evident that such laws are not only impacting the well-being of a large number of accused who are later acquitted but also create anxiety among citizens. It creates fear that any normal person could end up in such a scene and would take a long time to prove their innocence. Therefore, the law does affect happiness.⁴⁷⁴⁸

BBC offices in India have been raided by tax department officials.⁴⁹ According to those working at the broadcaster, more than a dozen officials from the country's income tax department turned up at the BBC offices in Delhi and Mumbai, where hundreds of employees are based, to conduct a *survey*. Documents and phones of several journalists were taken and the offices were sealed. Although it's legal to raid, yet BBC coming under such a violent violation a few weeks after the release of a controversial documentary on PM Narendra Modi does raise concerns.⁵¹ These types of incidents show that although the law should be followed by citizens, just because it's

⁴⁶ Chaitanya Mallapur & Devyani Chhetri, 'Arrested Activists: 67% Ended in Acquittal or Discharge under UAPA Act' (*Business Standard*, 14 September 2018) <https://www.business-standard.com/article/current-affairs/arrested-activists-67-ended-in-acquittal-or-discharge-under-uapa-act-118090800801_1.html> accessed 21 February 2023

⁴⁷ 'Stan Swamy: India Outrage over Death of Jailed Activist' (*BBC News*, 07 July 2021) <<https://www.bbc.com/news/world-asia-india-57718361>> accessed 22 February 2023

⁴⁸ Rohan Venkataramakrishnan, 'Stan Swamy Is Dead. How Did Putting This 84-Year-Old Parkinson's Patient in Jail Serve Justice?' (*Scroll*, 05 July 2021) <<https://scroll.in/article/999355/stan-swamy-is-dead-how-did-putting-this-84-year-old-parkinsons-patient-in-jail-serve-justice>> accessed 22 February 2023

⁴⁹ 'BBC Offices in India Raided by Tax Officials amid Modi Documentary Fallout' (*The Guardian*, 14 February 2023) <<https://www.theguardian.com/world/2023/feb/14/bbc-offices-india-raided-tax-officials-modi-documentary-fallout>> accessed 22 February 2023

supposed to be followed, doesn't mean it makes people happy. Such laws that can be manipulated by the government in its favor indeed create suspicion among citizens and therefore impact the happiness index.⁵⁰

CONCLUSION

The World Happiness Report, which is issued annually, assesses people's well-being and happiness in different countries based on economic and social parameters. India has consistently ranked low on the index, even though it is one of the world's fastest-growing economies. In contrast, Finland, Denmark, Switzerland, Iceland, and the Netherlands are the top countries on the happiness index. India's legal framework is based on various social, political, economic, and cultural factors. The legal system impacts people's perception of joy and constructs a sense of morality. However, law and morality do not always coincide. While law focuses on equality and promotes harmony, morality seeks only subjective approval and is not based on social conditions. India's legal system has taken significant steps towards progress, such as decriminalizing homosexuality. However, to increase the country's overall happiness index, policymakers must prioritize other elements such as social support, life expectancy, and the ability to make life choices. Despite the low happiness index in India, there are ongoing endeavors to tackle the root causes and enhance the overall welfare of its populace.

⁵⁰ *Ibid*