

# Law and Life in the State of Nature: Reflections on the Stories of Legal Literacy

*Abha Singhal Joshi*

**H**obbes' description of the life of man in the State of Nature, as "solitary, poor, nasty, brutish and short" could well be an apt description of the life of a commoner juxtaposed with the law of crime and the criminal justice system in our society. This paper, based on analysis of experiential accounts and responses of persons all over the country, drawn from various backgrounds over a period of 15 years, will attempt to examine the ordinary and unsung 'criminal'- which includes not only persons who have actually committed crimes, or formally been accused of crimes, but even those who, because of who they are, *raise a presumption* of being criminals. It will focus on the perception of 'law' amongst common citizens as a tool to be feared and avoided; a machine which is commanded by and therefore works best only for those who are affluent or otherwise powerful.

At the cost of inviting the frequent allegation that 'human rights deals only with the protection of criminals', the paper will first deal with the perceptions and experiences of an accused or convicted person. It will examine the typical instances of crime for which persons find themselves pushed into the criminal justice system, the response of the system and the impact on the person's life and that of those associated with him. The system as it operates, generates a constant and living "fear and insecurity"; it sets limitations on the movements, lives and actions of people where none should rationally or legally be; it engenders a hatred for the state and all its instruments and pushes a person back into the state of nature where men live in a 'condition of war'.

The experience of the victims in terms of the apathy, disorder and lack of response from the criminal justice system matches that of the accused almost step by step. On a close examination of the working of the system in a majority of situations, the popular perception that the rights of the victims of crime are *ignored at the cost of favouring* the perpetrator of crime is displaced, as the plight of victims is in no way related to the (non-existent, in practice) protection afforded by the law to the accused. In its repetitiveness and universality, it engenders a typical mindset and a typical response to persons accused of crime, slotting them in moulds defined by their look, names, social and economic status and functions to deny citizenship to entire segments of people.

The cruelty and disdain shown by the formal justice system spills over into society and emerges in the form of fatwas, decisions by panchayats to 'punish' persons who have committed 'crime' (as defined by that particular grouping), and now, increasingly, public lynching of different hues, very often receiving tacit community approval.

Email Id: [abha@ngo-marg.org](mailto:abha@ngo-marg.org)