



INTERNATIONAL LAW  
JOURNAL

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**WHITE BLACK  
LEGAL LAW  
JOURNAL  
ISSN: 2581-  
8503**

*Peer - Reviewed & Refereed Journal*

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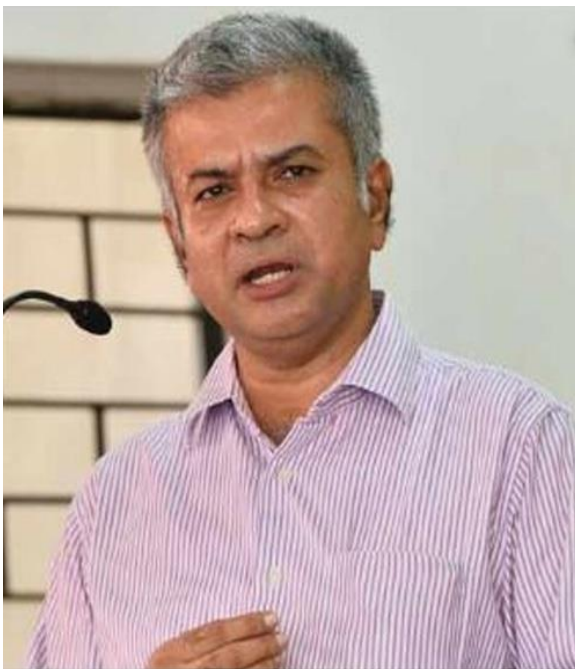
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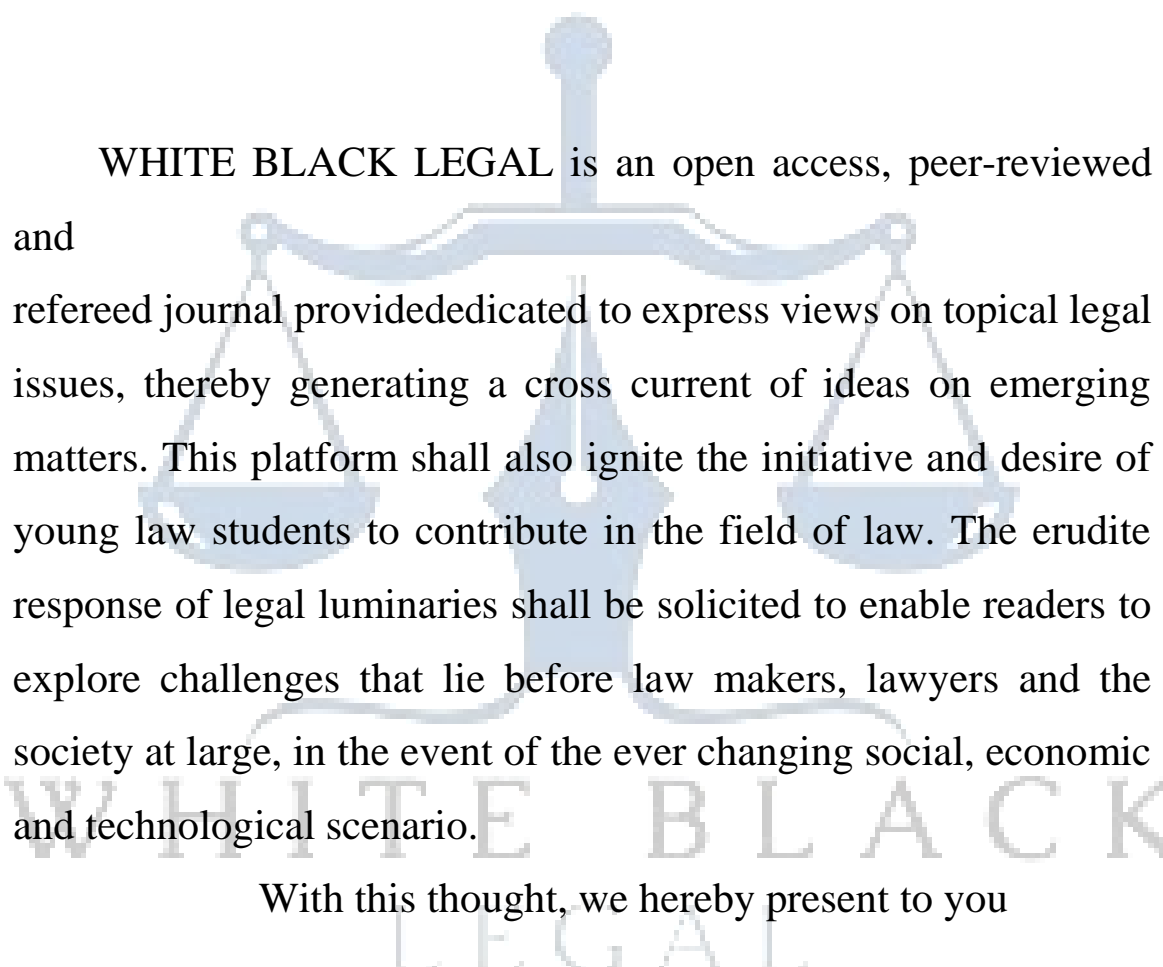


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## ***ABOUT US***



WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

# **BODY SHAMING AND SLUT SHAMING - A SOCIAL EPIDEMIC**

AUTHORED BY - JEMIMA B S<sup>1</sup>

## **Abstract**

Every person has the right to lead a dignified life. Any injury to the reputation and dignity of the person is an interference with his freedom. Body shaming and slut shaming are grave forms of interference to a person's dignified and decent life. Psychological harm caused to a person is also a form of torture committed against that person. Many international treaties and conventions have identified torture as inhumane. Though the Indian laws do not have any explicit provisions on the same, body and slut shaming can be addressed under certain offences in IPC (BNS). Robust awareness and penal provisions are necessary to curb this evil.

Key words: Body shaming, Slut shaming, Torture, Art 21

## **Introduction**

As India celebrates 76<sup>th</sup> republic day on this 26<sup>th</sup> January, an important aspect that we need to introspect as a nation is where we have reached so far, as a society, in terms of social growth. We are one of the fast developing nations in the world developing at a meticulous rate in terms of education, economy etc but where we stand in terms of social development is still a question that needs to be addressed. Social development means the development of the nation as a whole in every sectors of a country including education, healthcare, labour rights, human rights, economy etc.

Last year, India witnessed many incidents that shook the nation like Calcutta R G kar hospital rape and murder case where a trainee doctor was brutally raped and murdered, which was a tight slap to the existing criminal justice system which failed again in curbing such evils even after the infamous 2012 Delhi nirbhaya case and the related amendments to the existing legal framework. Harassment against women is continuing even after 77 years of independence in new forms and colours. One such form is body shaming and slut shaming.

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Body shaming and slut shaming cannot be considered as a new emergence in one way. These were there in the society earlier but only now we have started discussing and debating on these topics without hesitation. Earlier, these were considered as something “very normal”. In Kerala, a renounced businessman in the state was arrested on 8th January 2025 in connection with a sexually coloured remark against an actress in a public gathering on her body and the way she dressed, which outraged the social media. This person was courageous enough to make such a remark in a public place in front of hundreds of people including the media. The reason for such courage is that it has been “Normalised”. The age old social stigma that women dressed up in a way that is not appealing to the societal standards set by the society, can be mocked, abused and called by specified names, still in practice. The Kerala High Court while considering bail in this case held that:

“body shaming is not acceptable in our society. Comments about the body of a person as too fat, too skinny, too short, too tall, too dark, too black, etc., should be avoided. There is a sense that we are all “too something”, and we are all “not enough”. This is life. Our bodies will change, our minds will change, and our hearts will change. Everybody should be vigilant while making comments about others, whether they are men or women.”<sup>2</sup>...court emphasized the relevance of this issue in the society.

### **Body shaming or slut shaming**

Body shaming happens when a person is mocked at or discriminated against especially due to appearance, weight, colour, skin tone, etc. Any undesirable remarks made by any person, whether deliberate or not, on a person’s physical appearance is body shaming but slut shaming is another aggravated form of body shaming which has deeper gravity and intensity. It is a practice of violent criticism by the society when any person violates the set societal standards of behaviour and appearance related to sexuality etc. It includes criticisms and sexually coloured remarks on dress code and preference of a person, blaming the victims of rape, crucifying women for sexual assault, violence against sex workers etc.

Both body shaming and slut shaming have a long term impact on the victims on their mental and social health. The European Court of Human Rights has rightly observed that “Degrading treatment/punishment, arouses in the victim a feeling of fear, anguish and inferiority capable of humiliating and debasing the victim and possibly breaking his or her physical or moral

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<sup>2</sup> C D Boby @ Boby Chemmanur v. State of Kerala, 2025 KER 2433 (Ker. HC).



resistance”<sup>3</sup>.

### **Freedom of speech and expression-the maximum extent**

The Indian constitution provides freedom of speech and expression to its citizens. Every citizen of the country can freely express and speak without any fear or apprehension. We have the freedom to express ourselves and speak out our opinion on any matter. But the extent to which one can go in the name of freedom of speech and expression is a question to be addressed. Many a times, people go beyond. Our fundamental right of freedom should not violate another person’s freedom. If it is our freedom to speak out our opinion on a dress code or sexuality, it is also the other’s right to express themselves in a way they wish to be. In the case *Price Waterhouse v. Hopkins*<sup>4</sup>, the court recognized gender stereotyping as actionable discrimination. This case was an allegation in which the plaintiff alleged that her employer refused to promote her due to her sex. The Court found in favour of the plaintiff Ann Hopkins that she was denied a partnership based on her non conformity with female stereotypes: she was described as “macho,” told to take “a course at charm school,” and advised to “walk more femininely, talk more femininely, dress more femininely, wear-make-up, have her hair styled, and wear jewellery.”<sup>5</sup>This case is an explicit example on how deep the roots of body shaming and slut shaming went into the society even in the workplaces, among adults, who are presumed to be aware of their rights and others freedoms.

Under the constitution of India, freedom of speech and expression guaranteed under art 19(1) (a) is not an absolute right. It is subject to reasonable restrictions under art 19(1) (2). One’s freedom of speech and expression should not extend to cause harm to others. Harm need not necessarily be physical but it could also be any kind of psychological harm. If the exercise of one’s freedom of speech and expression cause mental agony or distress to another person, it cannot be confined in a term ‘harm’ but it is a torture.

### **When does freedom of speech and expression amounts to torture?**

“The term torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is

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<sup>3</sup> *Ireland v. United Kingdom*, (1978) 2 E.H.R.R. 25.

<sup>4</sup> 490 U.S. ,288 250-52( 1989 )

<sup>5</sup> *id*

suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.”<sup>6</sup>

The definition by the UNCAT convention defines torture as not only physical pain or suffering but also mental pain based on discrimination of any kind. “No physical or mental torture, nor any other form of coercion, may be inflicted on prisoners of war to secure from them information of any kind whatever.”<sup>7</sup> Thus, all the international instruments concerning torture prohibit not only physical torture but also the mental torture because when physical pain is felt on the body, mental pain is felt on the mind in the same gravity as that of a physical pain. Both are experienced by the person with the same intensity. Therefore body shaming and slut shaming is a form of mental torture afflicted by the society to the person.

Association against torture makes a valid observation in this regard. “Societal norms, discriminatory laws and systematic impunity are some of the deep-rooted factors that contribute to women and LGBTI+ persons being at risk of torture and ill-treatment. Offences that solely or disproportionately affect women, girls and LGBTI+ persons perpetuate discrimination and risks of harm. Patterns of violence and discrimination can also prevent women and LGBTI persons from accessing justice and add to [situations of vulnerability](#) they can experience.”<sup>8</sup> Again under UDHR there is a provision that prohibits torture. “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”<sup>9</sup> Hence, the extent of freedom of speech and expression is that it shall not extend to causing any kind of mental torture to any person. When the exercise of freedom of speech and expression causes mental agony, it becomes torture and that is when one’s freedom becomes another’s burden.

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<sup>6</sup> Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Dec. 10, 1984, 1465 U.N.T.S. 85, art. 1.

<sup>7</sup> **Geneva Convention Relative to the Treatment of Prisoners of War**, Aug. 12, 1949, 75 U.N.T.S. 135, art. 17.

<sup>8</sup> Torture Prevention, ASS'N FOR THE PREVENTION OF TORTURE, <https://www.apr.ch/torture-prevention/what-torture#:~:text=Torture%20means%20any%20act%20by,suspected%20of%20having%20committed%2C%20or> (last visited Jan. 30, 2025).

<sup>9</sup> **Universal Declaration of Human Rights**, G.A. Res. 217A (III), U.N. Doc. A/810 at 71, art. 5 (1948).

## **Interpretation of Article 21 on body and slut shaming**

- Right to choice

Under art 21 of the Indian constitution, a woman's right to choice was extended to reproductive rights also and the court has explicitly asserted that right to make reproductive choices was also a dimension of personal liberty. Court held that "it is important to recognise that reproductive choices can be exercised to procreate as well as to abstain from procreating and the crucial consideration is that a woman's right to privacy, dignity and bodily integrity should be respected"<sup>10</sup>. The court upheld the right to choice of a person by recognising privacy and dignity as an inherent and basic human right which is very essential to lead a happy and dignified human life which is more than a mere animal existence.

- Right to live with dignity, decency and happy

It is a well-established right under the constitution as well as the international instruments and conventions that to live with dignity is a basic human right to any person. Indian courts has observed the same in a prominent case questioning the validity of beauty contests that:

"It is also relevant and expedient to hold without any reservation that if beauty contests tend to offend the dignity of a woman to deal with her indecently in the circumstances amounting to indecent representation in any form, they are bound to offend Article 21 of the Constitution of India as right to live includes right to live with dignity and decency and right to live happily. Any violation of the women society in the country in body or mind leading to justifiable unhappy existence is bound to attract Article 21 of the Constitution "<sup>11</sup>. Court recognised not only the right to have a dignified life but also a happy life, which means that no one shall interfere with others right to lead a happy and decent life.

- Right to Personal autonomy

Regarding personal autonomy, court observed in a case that "personal autonomy is inherent under art 21 of the constitution and it is the right of an individual to choose how he should live his own life, without any control or interference by others and the court also recognised the right of an individual to refuse unwanted medical treatment and to not be forced to take any medical treatment that is not desired."<sup>12</sup> Body and slut

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<sup>10</sup>Suchita Srivastava & Anr v. Chandigarh Administration, (2009) 7 SCC 217 (SC).

<sup>11</sup> Chandra Rajakumari & Anr. v. Commissioner of Police, Hyderabad, (1998) 1 ALD 810

<sup>12</sup>**Common Cause (A Regd. Society) v. Union of India**, (2018) 3 MAD LJ 503

shaming is a clear violation of one's bodily autonomy causing them to feel guilt about their body and existence.

### **Indian laws on body shaming and slut shaming**

There is no direct legal provision dealing with body shaming and slut shaming in Indian laws but the practice can fall under broader legal categories like harassment, defamation, privacy violations, and emotional distress, depending on the circumstances. Legal frameworks such as the Bharatiya Nyaya Sanhitha (BNS), 2023, The Sexual Harassment of women at Workplace Act, 2013, and the Information Technology Act, 2000 offer some recourse for individuals who have been subject to body shaming. There is no particular provision in any act which exclusively mentions body shaming or slut shaming but there are many judicial decisions prohibiting body shaming and slut shaming.

- Defamation under sec. 499 IPC (Sec. 356 BNS)

Every person has the right to live a dignified life. A person has the right to reputation enshrined under the constitution on the wide interpretation of art 21. Body shaming comes under s. 499 as it is a harm or injury caused to the reputation of a person. This includes negative comments on someone's physical appearance or any undesirable comments on body or character. If an individual is subjected to body shaming that damages their reputation, they can file a defamation suit under this section, for which the punishment is imprisonment of up to two years or a fine, or both.

- Cruelty under Sec. 498A IPC (Sec. 85 and 86 BNS)

Kerala high court has made clear that body shaming comes under the purview of cruelty. Court ruled on the basis of a marital dispute that body shaming by in-laws in a marital relationship constitutes cruelty under s. 498 A of the IPC.

Court held that if a sister-in-law does any acts or spells any comments on body of a woman which amounts to causing injury to the mental and physical health of a woman, it amounts to Cruelty under Section 498A of the Indian Penal Code (IPC). The Court held thus in a Criminal Miscellaneous Case filed to quash the case pending before the Judicial First Class Magistrate against the accused. A Single Bench of Justice A. Badharudeen observed, "... when the overt acts herein, at the instance of the petitioner, are evaluated, body shaming and doubting the medical degree of the de facto complainant are the allegations against the petitioner. The overt acts, at the instance of the petitioner, prima facie to be read as wilful conduct which are of such nature to cause

injury to the mental and physical health of the woman dealt under explanation(a) to Section 498A of the IPC.”<sup>13</sup>. Thus body shaming was identified by the court as cruelty.

- Words, gesture or act intended to insult the modesty of women under 509 IPC( Sec.79 BNS)

When a person with an intent to insult the modesty of any woman, utters any words, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman is an offence under IPC<sup>14</sup>. Body shaming and slut shaming can be brought under this section of the act.

Various provisions under Information Technology act 2000 and its rules can also be attracted for the purpose of penalising body shaming and slut shaming but there is no provision in any law as such, on the prevention of such abuses.

### **Impact of body shaming and slut shaming on victims**

Victims of body and slut shaming have severe impacts on their psychological, social and personal life. Firstly, it affects the mental health of the victims leading to intense guilt and shame. It can also lead to conditions like anxiety and depression to the victims which arises due to the shame and lack of empathy from others. With the growing ‘influencers’ concept on social media, rampant preaching by them, about their perceived way on how one should look, adolescents, in this impressionable yet immature age, are getting sucked into the idea of an ideal body and this results in the public humiliation of those who do not fit this stereotype due to their appearance<sup>15</sup>. Secondly, it affects the confidence of the person and the victims begin to doubt themselves and question their self-worth. Also mostly it is women who are blamed for the sexual assault happened against them. Victim blaming affects the social and psychological health of a person. “The more people are exposed to weight bias and discrimination, the more likely they are to gain weight and become obese, even if they were thin to begin with and they’re also more likely to die from any cause, regardless of their body mass index (BMI).”<sup>16</sup> These kinds of abuse on a person adversely affect the health and wellbeing of a person. “Low self-esteem, low body dissatisfaction, and depressive symptoms are expected outcomes of body shaming, which is consistent with the increasing amount of research highlighting the

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<sup>13</sup> **ABC v. State of Kerala & Anr.**, 2024 KER 85565 (Ker. HC).

<sup>14</sup> S. 509 IPC

<sup>15</sup> Jyothi Vijaykumar, Ramya Ambekar, Sakina Shaikh & Niharika Yadav, *The Effect of Body Shaming of Fat and Thin Individuals on Mental Health of Age Group 18 to 23 Years*, 8 RGUHS Nat'l J. Pub. Health 18, 18-21 (2023).

<sup>16</sup> Lauren Vogel, *Fat Shaming Is Making People Sicker and Heavier*, 191 CMAJ 649 (2019).

detrimental effects of appearance-based harassment on young people.”<sup>17</sup>

### **Conclusion**

Both body shaming and slut shaming can be called a social epidemic because the roots are not confined to any single person but to the entire society itself. What can be done to cure such an evil from the society is by providing a robust awareness about rights, obligations and duties that we as an individual have towards each other and to the society as a whole. Also developing a culture of inclusivity will help to a larger extent. For that proper education and awareness from the school level is required. Having an open conversation about different perspectives without judgment, encouraging compassion towards fellow beings and cultivating self-respect and mutual respect will also help in the long run from a societal point of view. To the victims of such abuses, methods like therapy, counselling, developing body positivity and acceptance is essential to make them aware of their worth which is independent from external factors. In short, only a collective effort including all sectors of the society from an individual level to a social level will help to eradicate this menace from the society.

From a legal point of view, strict laws are to be implemented to punish the wrongdoers who intentionally cause mental distress and psychological torture to others. An amendment to the existing legal framework to include such abuses also under the offences is a necessity of the time.

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<sup>17</sup> *Supra* note 15