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## Revisiting the Statutory Periphery of Section 56 of the Contract Act, 1872: Concept, Conundrum and Reforms

Dalia Pervin\*

### *Abstract*

*This paper will attempt to explain and understand how frustration is dealt with in English law where it originated and then move on to our domestic law, where the cases that are typically dealt with under Section 56 of the Contract Act, 1872 mainly and in some cases under Section 32 of the Act. We will thoroughly explain the provisions of Section 56 and then attempt to differentiate between the common law doctrine and our positive law, that is Section 56. This article will focus on Section 56 only.*

**Keywords:** Doctrine of frustration, Contract Act, 1872, Section 56, Force-majeure, Covid-19

### **Introduction**

In our daily life, we enter into different kinds of contracts, ranging from purchasing simple households to large scale commercial contracts for manufacture of goods and services. We enter these contracts with some specific assumptions and expectations in mind, usually that both parties will perform their part of the contract. The usual discharge of a contract is done by performance. However, in many cases, the performance of the contract is not possible without any of the party's fault and the contract is said to have been frustrated.

The doctrine of frustration is a creature of common law and grew over time to mitigate the harshness of the rule of strict obligation of contracts. When any subsequent event grave enough to frustrate the contract occurs, it is usually any or both parties to the contract who go to the Court to have their contract annulled. The Court does this by considering all the facts and circumstances of the case.

The English law on Contract forms the backbone of Bangladeshi law of contract, which is dealt with by the Contract Act, 1872. The Act promulgated in 1872 borrows heavily from the common law doctrine of frustration of contract when it talks about the discharge of a contract on subsequent illegality or impossibility under Section 56.

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Section 56 of the Act deals with contracts where the contract was made for an impossible thing or purpose, in which case it is void ab initio and, cases where the performance of an otherwise valid contract becomes void on the happening of some future event making the performance impossible or illegal. In fact, upon further investigation in this paper, we will find that though some Courts of India<sup>1</sup> have observed that Section 56 of the Contract Act, 1872 breaks away from the English law, English law still holds a tight grasp on our law of frustration.

The different clauses in the nature of liability-exclusion clauses have been accepted in our domestic contract law the same way as in English law. The Indian Courts have referred to Section 32 of the Act to deal with specific clauses such as force-majeure clause differently. But that is outside the ambit of this article.

### **What is “Frustration”**

Once a contract is entered between the parties they are bound by the terms of the contract and perform their part of the bargain. This is the most essential rule of contract law. When a party fails to perform his part of the contract, that results in a breach of the contract and the other party is entitled to compensation. This follows the well-known maxim of *pactasuntservanda*, a contract must be honored. In cases it is breached, the breaching party must compensate the non-breaching party.

However, after a lawful contract is concluded, there might take place some event that changes the circumstances under which the contract was initially entered into. A contract is entered between the parties through their mutual consent, and they are free to make provisions in case any future event makes it difficult for them to perform. But the parties may not always have the gift of foresight to make conscious provisions for their rights and duties under those changed circumstances; or they might make provision for dealing with one event but what happened was beyond their contemplation. This subsequent event might not only have the effect of making the performance more onerous but might also make it impossible or illegal or even though possible, not practicable. In those cases, performance sometimes can amount to something which is totally against the spirit of the contract they had entered into or amounts to something that is radically different from what was promised. In such cases the contract is said to have been frustrated. Frustration is an exception to the general rule of absolute obligation. In cases of frustration, a contract is discharged without full performance, but the non-performance does not amount to a breach.

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<sup>1</sup>Since the literature on Law of Frustration meaning Section 56 did not receive adequate attention of the judiciary of Bangladesh we have to rely heavily on the judicial precedent of the Indian jurisdiction because both the countries follow the same legislation i.e., the Contract Act, 1872.



Frustration is always a result of a subsequent event or subsequent change in the circumstances that render the contract either illegal or impossible or makes the performance radically different than what was promised to be performed. The doctrine is applied by the Courts very narrowly before excusing performance based on a claim of frustration, that is, the doctrine is to be invoked not as a matter of course whenever a changed circumstances make the performance more onerous, or where either of the parties could reasonably foresee the subsequent change in the legislation or circumstances or event.

### **Development of the Doctrine of Frustration Over the Years:**

#### **Earlier Stage of Development:**

Once the parties to a contract were absolutely and strictly obliged to perform the act or service contracted for *strictosensu*, no matter what happened. Once a contract is finalized the parties could in no circumstances be discharged from their obligations.

This strict obligation theory affected the lessee very harshly in *Paradine vs. Jane*<sup>2</sup> where the occupant was not discharged from his duty to pay rent though the land was occupied for three years.<sup>3</sup> This strict-liability doctrine, however, began to change in the middle of the nineteenth century.

#### **Taylor vs. Caldwell: The First Instance of Successful Invocation of the Doctrine**

In 1863 in *Taylor vs. Caldwell*<sup>4</sup> marked the first departure from the absolute obligation theory when the destruction of the subject matter was held to have excused the parties to the contract from further performance. The Surrey Garden Hall being destroyed by fire, the contract could not be performed. Taylor claimed damages for breach of contract. Blackburn, LJ was tasked with the onerous duty to reconcile the ideas justice with the strict obligation theory. In his effort, he devised a new theory to excuse performance, the implied term theory. He held that the contract had in fact, a term implied in it that the continual existence of the subject matter or circumstances is the basis of the contract, the destruction of which will render the performance impossible without default of the contractor. “He attributed a conventional character to an obviously reasonable, if not inevitable, solution”.<sup>5</sup> “According to this theory, though no express term for the discharge of the contract was made by the parties, the Court would

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<sup>2</sup> [1647] 82 Eng. Rep. 897

<sup>3</sup> M P Furmston, *Cheshire, Fifoot and Furmston's Law of Contract* (16<sup>th</sup>edn, OUP 2012) 715

<sup>4</sup>[1883] 32 LJ 164 (QB)

<sup>5</sup>Furmston (n 3) 717

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read into the contract a term to the effect that had they anticipated and considered the catastrophic event that in fact happened, they would have said, ‘if that happens it is all over between us’<sup>6</sup>

This theory was devised to justify the fact that the Court, though does not have the power to absolve the duties undertaken by the parties, it is in fact absolving the parties. And in order to do that they are reading into existence a term that is not there; ‘the law is only doing what the parties really (though subconsciously) meant to do for themselves’. Though the doctrine of frustration gained momentum and was expanded to cover cases other than destruction of subject-matter, the implied term theory garnered mixed reviews and soon a debate started as to what exactly is the basis of the doctrine of frustration.

To attempt to guess the arrangements that the parties would have made at the time of the contract, had they contemplated the event that has now unexpectedly happened, is to attempt the impossible, as it is not enough to say that in the event of something unexpected happening some term must be implied: it must be clear also what that term should be.<sup>7</sup> As Wright, LJ rightly observed, if a term is implied based on the rationale that the parties would have themselves made a provision for discharge had they known what would happen, then is it not too simplistic and unreal to assume that the parties would have opted for absolute discharge rather than make provisions to salvage as much of the contract as could be salvaged?<sup>8</sup>

A rather more sophisticated rationale is the non-occurrence of some event which must reasonably be regarded as the basis of the contract.

### **Coronation Cases: <sup>9</sup>Foundation of the Contract Destroyed**

Where the foundation of the contract is lost, frustration was granted in *Krell vs Henry*<sup>10</sup>. Due to the suspension of the Coronation procession, the

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<sup>6</sup>F A Tamplin Steamship Co Ltd vs Anglo-Mexican Petroleum Products Co Ltd [1916] 2 AC 397 at 404, per Lord Loreburn; *HirjiMulji vs Cheong Yue Steamship Co Ltd* [1926] AC 497 at 504; *Port Line Ltd vs Ben Lin Steamers Ltd* [1958] 2(QB) 146 at 162, per Diplock J; *British Movietonews Ltd v London and District Cinemas Ltd* [1952] AC 166 at 183, per Lord Simon; and at 187, per Lord Simonds; *Joseph Constantine Steamship Line Ltd vs Imperial Smelting Corp Ltd* [1942] AC 154 at 163, per Lord Simon

<sup>7</sup>*Davis Contractors Ltd. vs Fareham UDC* [1956] AC 696, per Lord Simonds

<sup>8</sup>*Denny, Mott & Dickson Ltd v James B Fraser & Co Ltd* [1944] AC 265, per Lord Wright

<sup>9</sup> A series of cases that arose from the coronation procession of King Edward VII being postponed when he suddenly fell ill and many contracts were rendered seemingly incapable of performance.

<sup>10</sup> [1903] 2 KB 740

basis why the contract was made was lost and the Court granted frustration. But we must notice that, the loss of the basis or foundation of the contract must be taken to mean the loss of the entire foundation or purpose; When a part of the basis is still attainable, the Courts are not likely to excuse performance as another coronation case, *Herne Bay Steamboat Co vs. Hutton*<sup>11</sup> is the example of this, where the fleet could still be viewed by sailing around the Solent on the boat hired, though the King could not be seen.

The more palpable approach now is to find out whether the subsequent event has changed the circumstances so much that if the contract is performed in the changed circumstances, it would result in a radical change in the obligation originally undertaken.

### **Davis Contractors vs. Fareham UDC: Radical Change in the Obligation Test**

One party to the contract claims frustration and the other party contests it. The Court decides the issue *ex post facto*, on the facts and surrounding circumstances. If the contract becomes more onerous to perform or if the Court thinks it would be unjust to ask for performance or if the performance would result in economic loss, frustration cannot be successfully claimed; unless there has been such a change that would make the contract a completely different one than what was entered into. Thus, the application of the doctrine is very narrow. The courts refuse to apply the doctrine unless they consider that holding the parties to further performance would, in the light of the changed circumstances, alter the fundamental nature of the contract.

The test was famously propounded by Radcliffe, LJ in *Davis Contractors vs Fareham UDC*<sup>12</sup>, “Frustration occurs whenever the law recognizes that without default of either party a contractual obligation has become incapable of being performed because the circumstances in which performance is called for would render it a thing radically different from that which was undertaken by the contract. *Non haec in foederaveni*; it was not this that I promised to do.”<sup>13</sup>

In this case, the claimants were builders who entered into an agreement to build some 78 houses in 8 months. The production cost had increased drastically than what was anticipated as the skillful labour available in the market was not enough and longer period meant more expense. During the negotiations, there was a price escalation clause contained in a letter which was not ultimately incorporated in the

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<sup>11</sup> [1903] 2 KB 683

<sup>12</sup>[1956] AC 696

<sup>13</sup>Ibid, per Lord Radcliffe

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contract. The contractors went on with the work even in the harsh business environment and through further negotiations, UDC did pay an extra amount. However, the contractors argued that they were entitled to much more and claimed that the contract had been annulled by operation of the doctrine of frustration, and they were entitled to payment on *quantum meruit* basis.

The Court unanimously found that though the contract had become much more onerous to perform and the claimants had undisputedly suffered more expense than originally bargained for, that was not enough to remove the footing on which the contract was based. The Court also found that the delay could have been foreseen though the degree to which occurred could not. The delay sure did make the job more onerous, but it never became a job of a different kind from that contemplated in the contract.<sup>14</sup> The expectation of the contractors was thwarted, “but it by no means follows that disappointed expectations lead to frustrated contracts”<sup>15</sup>.

This view of the Court was later on adopted in many cases including *National Carriers Ltd v Panalpina (Northern) Ltd*<sup>16</sup> where Lord Simon aptly explained, “Frustration of a contract takes place when there supervenes an event (without default of either party and for which the contract makes no sufficient provision) which so significantly changes the nature (not merely the expense or onerousness) of the outstanding contractual rights and/or obligations from what the parties could reasonably have contemplated at the time of its execution that it would be unjust to hold them to the literal sense of its stipulations in the new circumstances; in such a case the law declares both parties to be discharged from further performance.”

### **The Sea Angel: Emergence of a Multi factorial Approach**

The English Courts increasingly found the above mentioned different theoretical bases of the doctrine to be quite burdensome and unnecessary as in reality, no matter what theoretic basis is propounded, the ultimate object of the doctrine was to meet the reasonable ends for the parties to the contract. With this view in mind, the Courts acknowledged that since no one fact or one theory can decide the question, a multi-factorial approach should be taken.

The Courts, in order to ensure that the doctrine is invoked and used in just cases, have recently moved towards formulating what is called a multi-factorial approach where the Court will take a panoramic view of

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<sup>14</sup> Ibid, per Lord Reid

<sup>15</sup> Ibid, per Lord Simonds

<sup>16</sup>[1981] AC 675, 700

“the terms of the contract itself, its matrix or context, the parties’ knowledge, expectations, assumptions and contemplations, in particular as to risk, as at the time of contract, at any rate so far as these can be ascribed mutually and objectively, and then the nature of the supervening event, and the parties’ reasonable and objectively ascertainable calculations as to the possibilities of future performance in the new circumstances<sup>17</sup>”

The Sea Angel was chartered as salvors and after performing material part of the contract that is salvaging crude oil from a tanker and redelivering to the claimant, she was detained in Karachi Port before the last redelivery. The Court held that the charter was, not frustrated though the delay in a contract of this kind tends to greatly diminish the value of the contract; The Court reasoned that the contractual risk of delay was on the charterers, the detention was foreseeable and the purpose for which the vessel had been chartered had been largely performed.

### **Our Law on Frustration of Contracts:**

In our jurisdiction, it can be said that there is hardly any difference from the English law doctrine in the principles, though it has been repeatedly affirmed by the Indian Courts, including the Supreme Court that since there is an express provision of law, namely Section 56 of the Contract Act, 1872 which exhaustively deals with the issue of supervening illegality or impossibility, albeit not always literal impossibility, the Courts only need to look at Section 56 while considering a case of frustration.<sup>18</sup>

Section 56 of the Act, though commonly treated as incorporating the doctrine of frustration, in fact deals with more than just frustration as we have seen in the English law. The first paragraph deals with initial impossibility, where the contract is entered for the performance of an impossibility. Such a contract is void ab initio.

The second paragraph of S. 56 enunciates the law relating to discharge of contract by reason of supervening impossibility or illegality of the act agreed to be done. A contract for doing something completely possible or legal is entered into, but subsequently through any unforeseen event or any Government intervention or any changed circumstances beyond the control of any of the parties, the performance becomes impossible or illegal. In those cases, the parties are discharged from performance as the contract becomes void.

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<sup>17</sup>Edwinton Commercial Corporation vs Tsavliris Russ, The Sea Angel [2007] EWCA Civ 547 per Lord Rix, para 111

<sup>18</sup> [1954] SCR 310

### **Subsequent/ Supervening impossibility**

When through no fault of any of the contracting parties, the performance becomes impossible; the contract comes to an end. However, here impossibility does not mean a literal or physical impossibility. The performance of an act may not be literally impossible but it may be impracticable and useless from the point of view of the object and purpose which the parties had in view and if an untoward event or change of circumstances totally upset the very foundation upon which the parties rested their bargain, it can very well be said that the promisor found it impossible to do the act which he promised to do.<sup>19</sup>

Much like in English law, any change in circumstances *ipso facto* does not frustrate the contract and excuse under S. 56 cannot be granted. If the parties were able to reasonably foresee the events that actually took place or the interruption is not of a nature to do any substantial harm to the performance of the contract, S. 56 cannot be availed of.

The landmark case of *Satyabrata Ghose vs Mugneeram Bangur*<sup>20</sup> has set and established the law authoritatively which has been consistently followed by all the Courts till this day. In the judgment, Mukherjea, B.K, J, after stating with unrelented and unwavering certainty that S.56 of the Act is exhaustive and the courts need not take recourse to English law, did however admit that the decisions of the English courts possess only a persuasive value and may be helpful in showing how the courts in England have decided cases under circumstances similar to those which have come before our courts.

In *Satyabrata Ghose vs. Mugneeram Bangur*<sup>21</sup>, though the land contracted for building residential area got requisitioned by the government, impossibility does not apply because the work had not begun when the land got requisitioned and thus, there was no interruption in the work. As the defendant pleads there would be an indefinite delay in performance of the contract so the impossibility should be applied. But there was no time limit described in the contract and the requisition was only temporary. So, there was no indefinite delay.<sup>22</sup> The Court upon assessment of the facts when the contract was entered into found that the parties were aware of the ongoing war and the requisition could have been reasonably foreseen.

“The courts have no general power to absolve a party from the performance of his part of the contract merely because its performance has become onerous on account of an unforeseen turn of events.”<sup>23</sup>

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<sup>19</sup>*Satyabrata Ghose vs Mugneeram Bangur* 1954 SCR 310

<sup>20</sup> Ibid

<sup>21</sup> ibid

<sup>22</sup> ibid

<sup>23</sup>*Naihati Jute Mills Ltd v KhyaliramJagannath* [1968] SCR 821

However, an argument can be made that the drastic change in the price had actually made the contract unworthy of performance in the practical sense of things. Though it was not literally impossible, the performance was highly impracticable. However, the Indian Courts have also consistently held that S. 56 does not make out a case for where the commercial purpose of the contract has been removed.

The recent case of *Energy Watchdog v CERC*<sup>24</sup> is as phenomenal as *Satyabrata*, even more so as this case deals with modern times and modern troubles. This case deals with both frustration and force-majeure clauses.

The claimants were the lowest bidders on the project of the defendant. They won the contract and were given a chance to choose between escalable and non-escalable tariffs. Since they had a long-term fuel supply from Indonesian Coal Mines, they chose the non-escalable tariff. In the power purchase agreement, a clause was inserted which was to discharge the parties in case the legal position regarding those kinds of contracts changed. This clause was a standard force-majeure clause incorporated in such contracts. Later, after two years, the Indonesian Govt. passed a new regulation in consequence of which, the price of coal increased drastically.

The claimants sought shelter of the force-majeure clause, but upon the true construction of the facts, the Indian Supreme Court held that, the change of legal position in Indonesia was not covered by the force-majeure clause, but only covered changes in Indian law.

The claimant also sought the protection of Section 56 in case the force-majeure clause failed. They argued that the abnormal rise in coal price should render the contract frustrated as it was impracticable for them to perform under the contract now. The Indian Supreme Court held that, the doctrine of frustration is very narrow in its application and mere onerousness or increase in price cannot absolve the parties from performing.<sup>25</sup>

The court upon the evidence adduced before the court, also found that the risk of price increase was always there and foreseeable and the claimants assumed the risk by quoting a non-escalable tariff. Now that they have suffered for their own fault, they cannot seek the shelter of Section 56.<sup>26</sup>

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<sup>24</sup>[2017] 14 SCC 80

<sup>25</sup>*Alopi Parshad & Sons Ltd. v. Union of India* 1960 (2) SCR 793, *Travancore Devaswom Board v Thanath Int'l* [2004] 13 SCC 44

<sup>26</sup>*Davis v Fareham UDC* [1956] AC 696, *Lucky Bharat Garage Pvt Ltd v South Eastern Coalfields Ltd* [2011] 2 CGLJ 483

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The Court cited almost all the authorities including the above cases restated the principles reached by the court in implementing the doctrine of frustration. The Supreme Court also held that like the invocation of frustration, the enforcement of the force-majeure clauses cannot either be sought lightly. The doctrine of narrow limits applies to force-majeure clauses too. The terms of the contract, its matrix or context, the knowledge, expectation, assumptions and the nature of the supervening events have to be considered and upon a true construction of the terms of the contract, the court will, if it thinks fit, enforce the force-majeure clause.<sup>27</sup> The approach of the Supreme Court in this case in coming up with a test for deciding whether the case is a fit one for granting excuse of performance is similar to the multi-factorial approach used in *The Sea Angel*. The decision even quoted the observation of Rix, LJ.

This decision, although restated the position of the Supreme Court of India on *Satyabrata, Alopi Prasad, Naihati Jute Mills*, that the provision of S. 56 is a positive law, and the construction of the intention of the parties is not necessary in the same way it is needed in English law, rather the Indian Courts need to just look at S. 56 and decide whether it applies and English decisions are not authoritative, the Court did eventually revert back to the *Sea Angel* to formulate and articulate the approach to be taken by the Indian Courts.

### **The Difference between English law and S. 56**

From the cases discussed above, it is hard to conceive how exactly our law on frustration is any different from the English law. We do have a statute where the Common Law doctrine of frustration has been incorporated as a positive law in our jurisdiction. But there has been no single decision of the Supreme Court of Bangladesh that has made any decision or comment on this issue. We are inclined to look at Indian decisions as Bangladeshi Courts have a long history of following Indian decisions, though Indian decisions are by no means authoritative. It is noticeable how the Indian Supreme Court even after declaring English Law not applicable and merely persuasive, in essence still follow the English decisions in a more or less authoritative manner and we follow the Indian decisions as infallible rules of law.

What at a first glance seems to be a very insightful and important distinction between the English law and our domestic law on frustration identified and addressed *Satyabrata*, but upon some pondering exposes itself as a meandering trail of confusion is the “implied term debate”. By this time, we all know that the English courts based the rationale on implied terms when they first started granting exemptions. Though

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<sup>27</sup> *Energy Watchdog v Central Electricity Regulatory Commission* [2017] 14 SCC 80



construction of the terms of the actual contract is more favored, the implied term theory still applied in the sense that in English law where the Courts upon construction find any implications, still the doctrine of frustration would apply. But according to the Contract Act, 1872, a promise may be express or implied<sup>28</sup>. In cases, therefore, where the court gathers as a matter of construction that the contract itself contained impliedly or expressly a term, according to which it would stand discharged on the happening of certain circumstances the dissolution of the contract would take place under the terms of the contract itself and such cases would be outside the purview of section 56 altogether, they would be dealt with under section 32 of the Contract Act, 1872, which deals with contingent contracts or similar other provisions contained in the Act.<sup>29</sup> In our jurisdiction, since terms can be both express or implied, in both cases, S. 32 would apply. But in cases where there is any implied term found, the consequences of the term must be constructed by the Courts the same way, that is upon the material on record before it.

The principles have been reaffirmed in *Energy Watchdog v CERC*<sup>30</sup> and a plethora of both remarkable and unremarkable generic cases but not one single decision made it clear how the provisions of S. 32 will apply or come into operation. In most cases including the *Energy Watchdogs*, the contractual terms that provide for the performance in changed circumstances have been observed to be treated under S. 32. But these clauses inserted into the contract are what are popularly known as force-majeure clauses and are not quite in the nature of “contingent contracts” as is the subject of the provision of S. 32.

### **Force-Majeure Clauses**

Where “a promisor does not wish to assume an absolute risk, he is free to delimit the extent of the obligation in any way he chooses, subject, of course, to the agreement of the promisee and to mandatory rules of law. As we have already seen, the justification given in *Paradine vs. Jane* for the imposition of strict liability in contract was that the promisor could have limited his obligation by agreement if he had so wished. In many cases the promisor may be especially unwilling to accept the risk of events over which he has no control, and a contract may typically provide that “the promisor shall not be responsible for any losses occasioned by any Act of God, strike, lockout, riot or civil commotion, combination of workmen, breakdown of machinery, fire or any cause contemplated in the term force-majeure ...”. Such clauses are known generally as force-majeure clauses. It should be pointed out, however, that force-majeure

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<sup>28</sup> The Contract Act, 1872, s. 9

<sup>29</sup> *Supra*, n 19.

<sup>30</sup> [2017] 14 SCC 80

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clauses come in a multitude of forms and, as with all contractual terms, each must be read in the context of the contract as a whole.”<sup>31</sup>

### **Difference between S. 56 and S. 32**

S. 56 applies to what is usually termed as “absolute contracts” that is when performance is not subject to a condition precedent. S. 56 applies when the performance of an absolute contract becomes subsequently impossible or illegal.

On the other hand, S. 32, which is part of Chapter III, deals with contingent contracts, which are basically conditional contracts, where the performance of a contract is entirely depended on the happening or non-happening of any future event. S. 32 in particular, deals with a contract which was contingent upon the occurrence of an uncertain but foreseen future event. The contract cannot be performed unless and until that event occurs. Let’s take for example, an insurance policy that A will be entitled to the policy if his house is washed away by the Padma River. A cannot avail the policy unless and until he loses his house to the river.

This is in essence completely different from when A and B enters into a contract for the sale of a house and before the delivery of possession, the house is washed away in Padma. In this case, the contract was not dependent on any future event happening or non-happening, rather the basis or foundation of the contract was removed or destroyed.

If we follow Satyabrata, would it be that an implied term can be gathered from the facts that the parties are to be discharged if the house got washed away? Should this case fall within S. 56 or S. 32?

As we discussed earlier, when the contract itself provides some clause or clauses to deal with the changed circumstances, that is a force-majeure clause. In light of that understanding, what Mukharjaj, J. in 1954 did not term as force-majeure clause, the Indian Courts have subsequently treated as such, and the Courts kept on dragging S. 32 to deal with such clauses in the contract.

Despite the above differences, frustration under Section 56 can be claimed even in cases where the parties have inserted force-majeure clauses, as Section 56 works de hors the contract, similar to the common law doctrine. Where the actual event and the consequences were unprovided for in the contract, Section 56 can still be successfully invoked given all the conditions for its application are met.

### **Consequences of Frustration in English law and Domestic Law**

In English law, if the Court is satisfied as to the applicability of the doctrine of frustration and when the facts of the case are satisfactorily

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<sup>31</sup>William Swadling, *The Judicial Construction Of Force-Majeure Clauses (Force-Majeure And Frustration Of Contract*, 2<sup>nd</sup> ed. Edited by Ewan McKendrick ,1995)

proved to warrant excuse from performance, the result is discharge of the parties, both of them, from further performance. The contract is void from the moment the supervening event occurs and onwards.

However, the doctrine did not traditionally allow compensation or reimbursement to the aggrieved party. But in *Fibrosa SA vs. Fairbairn Lawson Combe Barbour Ltd*<sup>32</sup>, the Court allowed reimbursement of the advanced sum when the contract was frustrated as a result of the German Invasion of Poland. Later, a statutory change was brought which incorporated the principle in *Fibrosa* and made provisions for recovery of money in different circumstances based on the stage of performance when the contract became frustrated.

Law Reform (Frustrated Contracts) Act 1943 made provision for recovery of money advanced and when the performance has not begun, but work has been done to begin, the cost of such preparation.<sup>33</sup> When the performance has been carried on to some extent, the Act makes provisions of payment based on part performance.<sup>34</sup>

It is very interesting that the British law makers had made a provision for compensation to the aggrieved party in the Contract Act, 1872, though they only started granting compensation in 1943.

When there is no default on part of either party, and the contract is rendered void, the remedy lies in S. 65 of the Act. The expression used in S. 65, “becomes void” includes cases of the kind contemplated by the second clause of S. 56 and is sufficient to cover the case of a voidable contract which has been avoided.<sup>35</sup>

### **The Third Paragraph of S. 56**

The language of the second paragraph of the Section may give the impression that though the illegality is not to be self-induced, the impossibility can be brought on by the acts of any party. If we read the third paragraph, we will find that if impossibility is brought on by the act of any party, he will be liable to compensate the other party. This third paragraph is not exactly a branch of what we usually identify S. 56 with. This provision has little relation with the doctrine of frustration, or excuse of performance owing to supervening impossibility or illegality. This is more about absence of good faith of one party resulting in loss to another and compensation.

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<sup>32</sup> [1943] AC 32

<sup>33</sup> Law Reform (Frustrated Contracts) Act 1943, s. 1(2)

<sup>34</sup> *Ibid*, s. 1(3)

<sup>35</sup> *Satgur Prasad vs. HarNarain* [1932] 59 IA 147

## **Frustration and Force-majeure Clauses during Covid-19**

The outbreak of Covid-19 not only disrupted our daily life but rendered our economies stagnant and many commercial contracts incapable of sound performance. The doctrine of frustration and the incorporation of force-majeure clauses to avoid the severe high standard of proving frustration gained renewed reputation.

Let's take a look at some cases to learn how the judiciary is handling frustration and force-majeure during Covid-19. One other thing to remember here is that, though Covid-19 have been declared a pandemic by the WHO and some countries have declared it as a force-majeure event, especially when regulating Government contracts, it, *ipso facto*, does not prove frustration, neither does it give the litigants a chance to invoke force-majeure clauses. The causal relationship between the pandemic and lockdown with the non-performability of the contract must be successfully established first.<sup>36</sup>

### **Halliburton Offshore Services Case (2020) Delhi High Court**

In Halliburton Offshore Services Inc. vs Vedanta Limited and Anr<sup>37</sup>, The claimant was due to complete performance on 16<sup>th</sup> June 2019. The original contract between the parties included a force-majeure clause which read as, "*Under the Contract, if either party is prevented, hindered or delayed from performing any obligation by an event or circumstances beyond the control of the party, then Force-majeure clause could be invoked.*" The force-majeure clause of the Contract inter alia included an event that "prevented or hindered or delayed by any natural event including a pandemic or plague.

The Contract was time sensitive. The monthly progress report indicated that there was miniscule work/no work carried out during the period of November 2019 to March 2020, showing that the Contractor did not adhere to the deadlines for completion of the project and thus was in breach. The Court relied on the principles laid down by the Supreme Court in the case of Energy Watchdog.<sup>38</sup>

The Court observed that breach of contract must be examined on the facts and circumstances of each case. Breach or non-performance cannot be justified merely on the invocation of COVID-19 as a Force-majeure condition. The past non-performance of the Contractor cannot be condoned due to the COVID-19 lockdown in March 2020 in India. The Contractor was in breach since September 2019.

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<sup>36</sup>Halliburton Offshore Services Inc. vs Vedanta Limited and Anr. [LSI-360-HC-2020(DEL)]

<sup>37</sup>Ibid

<sup>38</sup>Ibid

It is the settled position that a force-majeure clause is to be interpreted narrowly and not broadly. Upon narrow construction, it was found that since the contractor was already in breach, he could not avail of the clause. It is also not the duty of the Courts to provide a shelter for justifying non-performance. There must be a 'real reason' and a 'real justification' which the Court would consider invoking a *force-majeure* clause. There is nothing on record to show the steps taken by the contractor towards mitigation, which were necessary as per the force-majeure clause.

The lockdown caused due to the pandemic of COVID-19 could invoke the force-majeure clauses in a contract, however, parties cannot take shelter under this situation to escape from their contractual obligations, or to hide contractual breaches that have occurred before. As held by the Delhi High Court, "Parties ought to be compelled to adhere to contractual terms and conditions and excusing non-performance would be only in exceptional situations."<sup>39</sup>

### **Concluding Remarks**

The periphery of the second paragraph of Section 56 is very wide, though apparently it covers only two specific areas, i.e., supervening impossibility and supervening illegality. The uniqueness of the Section is it is wide enough to tackle new situations such as any pandemic as we have experienced in Covid-19. Where the contract does not provide for any specific way to handle the changed circumstances or provides procedure for one particular occasion and not others, frustration can be successfully invoked. Though Covid-19 was not foreseeable and not provided for in any contract, as a pandemic of unprecedented scale it could very well be treated as a frustrating event under Section 56 provided all other conditions were satisfied.<sup>40</sup>

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## **Building My Village into a Town: Thoughts and Reality**

**Kazi Foyez Ahmed\***  
**Mohammed Kamrul Hasan\*\***

### ***Abstract***

*By expanding modern urban facilities to every village, promoting the implementation of SDGs in 2030, transforming into a developed country in 2041 and climbing the highest peak of prosperity in 2071, Bangladesh will become a golden Bengal. Bangladesh will move forward by following Delta Plan 2100 so that the development journey does not stop due to the impact of global climate change. In this development journey, the rural local government will serve as the basis for building a developed country to construct my village and my town. The role of local government, if adequately implemented, will create a conducive environment for GDP growth and continuously extend modern civic amenities to rural people. As part of the BARD applied research project, implementing "Aram Gram Aram Shahaor" in Barura Upazila No. 4 of South Khosbas Union of Cumilla District has spread the town's benefits to the village. The government plans to establish 10 model villages with all modern urban facilities in nine districts. The government has disbursed Tk 4993.90 crore already and plans to facilitate 5000 people living in these villages within June 2024. The government will also provide a loan of Tk 2 crore to the villagers under a minimal interest rate of only 3 percent. Model villages have the market infrastructure, modern health services, quality education, clean drinking water, information technology and high-speed internet facilities, improved sewage and waste management, community spaces and recreation, banking facilities, rural employment, increased power and energy supply, and agriculture. - It is said to have all facilities, including the increase in production through modernization and mechanization. Cumilla's Pomgaon will be The first pilot project, which The Department of Cooperatives (DoC) will implement under the Local Government, Rural Development and Cooperatives Ministry.*

*The idea of rural development in Bangladesh is one of the driving forces of independence. Father of the Nation, Bangabandhu Sheikh*

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*Mujibur Rahman, considered the village the centre of development and prosperity. In Article 16 of the independent country's constitution, Bangabandhu promised that the state would take adequate measures for the radical transformation of rural areas through agricultural revolution, rural electrification, and development of cottage industries and other industries, which will address education, communication and public health, and persistent urban-rural disparities. According to the current government's 2018 election manifesto, this research shows improved roads, communication, clean water, modern health care and medical care, quality education, and sewage and waste management. All the facilities of a modern city should be provided to every village by increasing the supply of electricity and fuel and expanding the market for quality consumer goods, including computers, high-speed internet facilities, and electrical appliances.*

**Keywords:** SDG, GDP, BARD, DoC, LGRD & C

## **Introduction**

This study addresses The Thematic Areas of the Conference SDG GOAL 11, Sustainable Cities and Communities. In this goal target, 11.8 is Strong National and Regional Development Planning. Descriptively said, Support positive economic, social and environmental links between urban, peri-urban and rural areas by strengthening national and regional development planning. In the general purpose of this study, the size, population and topographical diversity of villages in different regions of Bangladesh have been observed. Because of climate change, there are challenges in building sustainable infrastructure. To address this diversity and challenge, action has been taken to build adequate, sustainable infrastructure and expand civic amenities. The study's specific objectives are to identify the desired facilities for implementing My Village My town. Formulation of the desired model village based on the opinion of public representatives and people. To identify the challenge and opportunity of government in implementing My Village My town. The ruling party's election manifesto for the 11th National Election of Bangladesh was a 92-page document that included specific sectoral plans and goals based on the governing party's previous two terms. The manifesto's main slogan is "My Village—My Town." The central idea is to bring modern urban amenities to every village in Bangladesh. Rural development received the highest political significance and policy priority through this slogan for the first time in our country.

Initiatives will be taken to provide every village with modern town facilities, such as developed roads, communication facilities, safe drinking water, modern health care and proper treatment, standard education, developed sewage and waste management, electricity and fuel



supply, computer and high-speed internet facilities, electric equipment and standard consumer goods. Employment opportunities will be created through the establishment.

In fulfilling their commitment, the government has already taken a very comprehensive and planned approach. "Education, infrastructure development, and planned village urbanization. The planned urbanization of villages will assist village growth centers (rural markets) in growing sustainably, thus contributing to the country's development journey.

Pomgaon, a remote village in Cumilla's Monoharganj, will be transformed into a model village as part of the "Bangabandhu Model Village" project. The Local Government, Rural Development, and Cooperatives Ministry's Department of Cooperatives has taken the initiative as part of the ruling Awami League's election pledge to establish self-sufficient villages, as envisioned by Father of the Nation Bangabandhu Sheikh Mujibur Rahman. The initiative is part of the project "My Village, My Town." The government intends to build ten model villages with all modern urban amenities in nine districts.

The government has already disbursed Tk 4993.90 crore and plans to assist 5000 people living in these villages by June 2024. All civic amenities will be provided in all villages to relieve the already-overburdened capital, other metropolitan cities, and district towns. The Cumilla's Pomgaon will be the first pilot project.

Pomgaon will have electricity, water, health, education, improved sanitation, waste management, modern roads and bridges, markets, playgrounds, parks, and recreation centres as a self-sufficient village. Small and large-scale industrial units will be established in the village to create adequate employment opportunities. The initiative will reduce disparities and bridge towns and villages.

"Different ministries will work together to ensure all kinds of benefits to citizens, and we plan to achieve a 25% increase in productivity in the agricultural sector of those ten villages by ensuring the best use of the village's natural and human resources through these joint ventures. Each village will establish cooperative societies to ensure socioeconomic, cultural, and cultural development. The government will also give the villagers a Tk 2 crore loan with a 3% interest rate. Along with Cumilla's Pomgaon, Tungipara's Patgati-Sriramkathi in Gopalganj, Charbhaga Miyarchar of Bhedarganj in Shariatpur, Mushuddi of Dharanbari in Tangail, Char Bhatiani of Madarganj in Jamalpur, Dongriya of South Sunamganj, Parala of Manirampur in Jashore, Ratiya in Mithapukur in Rangpur, Hosnabad of Gouranadi and Char Komisonar of Muladi in Barishal will soon be transformed into model villages.

### **Objectives of the study**

This study aims to assess the opportunities and barriers that exist in the current context for delivering all of the city's facilities to the villages. The preparation of this paper contains a few specific objectives. These are

- To investigate the variables that impact the happiness of Villagers in my village my city concept and to consider the expectations.
- To have exposure to the expectation of Villagers.
- To get significant knowledge about the individual Migration expectation of the different levels.

### **Literature Review**

Sustainable development is commonly discussed in terms of environmental considerations, but from the perspective of a rural community, sustainable development must address how the people of the community. The community generates income to support its rural lifestyle. When considering employment as part of sustainability discussions, it is common to think of jobs that will last forever. However, the reality of modern rural and urban life is that economic conditions change rapidly, so any discussion of sustainable employment must take place in a dynamic context in which different types of employment evolve as economic conditions change. While market signals can, in theory, provide the information and conditions for this dynamic process, the paper argues that rural areas' nature makes markets likely to provide sustainable employment (water, David fresh, 1991).

Rapid urbanization has already become a defining feature of China's socioeconomic transition. The characteristics and problems of villages in the Beijing metropolitan region are highlighted in this paper. The paper also investigates the role of villages in the metropolitan region in the urbanization process. This paper presents the Village System Planning of Changing Districts in Beijing as an example. According to the findings of a study on the economic and spatial typologies of villages in the Changing District, the villages are divided into three categories in the planning. Finally, through the categorization guidelines, Village System Planning intends to solve the problems of villages against the backdrop of rapid urbanization to achieve the sustainable development of rural areas (Whiffing, Zhao, 2009).

The majority of India's population still lives in villages. A lot of work must be done to clean up the villages. Water supply, sanitation, indoor air quality, solid waste management, and renewable energy are some of the aspects of a clean village. All of these aspects have various alternatives, each with its own set of benefits and drawbacks. Significant work is done

in some areas, such as water supply, while much work is required in others, such as sanitation. We can learn a lot from the successes and failures of various alternatives. Keeping up with technology Clean village projects should incorporate technology and digital design, resulting in a village that is not only clean but also smart. The government plans to start a massive campaign to bring all the city's civic amenities to the villages. This project to build growth centres across the country is in the planning stage. All of these issues are addressed in the paper regarding Maharashtra and India. This discussion intends to provide important inputs and alternatives to policymakers for them to redirect and reformulate policy. Engineering students can design and implement projects for a clean and smart village, which will help them develop their skills. The paper concludes with recommendations for effectively creating a Clean and Smart Village (Kulkarni, Dr. Milind, 2015) .

According to the draft action plan prepared by the Local Government Department (LGD) under the Ministry of Local Government, Rural Development and Cooperatives, Under this mega project titled 'Amar Gram Amar Shihar', many goals have been set such as building road connectivity, telecommunications with internet connectivity, health centres, drainage and waste management. Only for the work implemented through this ministry, an initial expenditure of one and a half lakh crores has been projected. The government has also decided to develop 15 villages as pilot model villages as an initial step in implementing this vast campaign. The experience of implementing the pilot model village is expected to facilitate the expansion of modern civic facilities in other towns of the country.

### **15 model villages will be developed in 8 divisions of countries:**

Apart from this, the remaining seven villages, one each along Haor, Coastal Area, Pahari Elka, Char Area, Barendra Area, Bill Area and Economic Zone will be made Model Villages. Implementation of development activities in these areas is complicated. And if model villages are implemented in these areas, the implementation of the master plan for rural development will be much easier.

Apart from economic deprivation, social and cultural issues will also be given importance in the model village. As announced by the government, the model village will have communication and market infrastructure, modern health services, quality education, clean water, information technology facilities and high-speed internet facilities, improved sewage and waste management, community space and recreation facilities, banking facilities, rural employment, electricity and It have been said to keep all facilities including an increase in energy supply, increase in production through agricultural modernization and mechanization.

Various ministries and departments are already proposing 116 new projects to expand modern civic amenities. For this action, the Ministry of Local Government is carrying out a detailed survey based on which several new projects will be taken up. The final cost will be communicated after the surveys are completed. 237 ongoing projects of various Ministries and Departments are also included in this plan as they are compatible with 'Amar Gram Amar Shahar'.

The list of pilot villages will be finalized through an inter-ministerial committee. The local Government, Rural Development and Cooperatives Minister is the head of the committee. After that, various organizations, including the Directorate of Local Government Engineering, Directorate of Public Health Engineering, Directorate of Cooperatives, and Ministry of Agriculture, will start the implementation of model pilot villages. Meanwhile, many organizations are also doing their preparatory work. Many organizations have already started preparations.

### **Model Villages Surveys are Underway of LGED**

A total of 36 surveys are underway at the cost of taka 28 crores to ensure maximum service in model villages. The survey is going on with all types of villages in the country. How about a model village in the Haor area, or how about a Char area; Where there is no means of communication except by sea, how all the civic amenities can be delivered will come up in the survey report. Ensuring quality education and modern medical services in model villages, what steps will be taken for employment these issues are also expected to come up in the survey report.

The 15 villages that will be developed as model villages have been initially identified but are not being revealed now due to the fear of various complications. After completing the survey work, it will be possible to start the pilot project in the next one to two years. After that, all the villages of the country will be developed as model villages in a phased manner, where the city will have all the civic facilities. Then people will move towards the village rather than the city.

### **Bangabandhu Model Village of Directorate of Cooperatives**

The Directorate of Cooperatives under the Rural Development and Cooperative Department has proposed to establish Bangabandhu Model Village as a pilot project in 10 villages. If the pilot project is successful, model villages will be established in all the villages of the country.

On the occasion of Bangabandhu Sheikh Mujibur Rahman's birth centenary celebrations, the Directorate has taken the initiative to build a Bangabandhu Model Village. A project proposal of Tk 49.93 crore has already been sent to the Planning Commission. These projects are targeted to be implemented by 2024. Much land in the village remains

uncultivated, and there are many ponds, where fish are not cultivated. There are no fruit or forest trees on either side of rural roads. The yard of the house is not used for productive activities. Due to a lack of motivation, lack of information and lack of skills and technology, rural areas are wasting a lot of natural resources including human resources.

Therefore, apart from crop cultivation, one meat and one dairy farm will be set up in each village under the proposed project. For this purpose 500, member cooperative societies will be formed in each village. Besides training the members, under the project, each village will be subsidized for the purchase of two tractors and transplanters and one harvester each. The members of the association will pay 30 percent for the purchase of agricultural machinery and the remaining 70 percent will be given from the project.

Two hybrid cow-rearing models will be introduced for rearing cows and cows in the village. For this reason, a loan facility will be given to those interested in rearing cows and cows from the special fund of the project. If the project is implemented, it is estimated that the agricultural production in the village will increase by 25 percent.

Besides, a community building will be set up in each village. Where there will be small-scale warehouses to store the produce. Each association will provide a PUP truck to transport the produce to the nearest market or Prothcentre. The products produced by the members will be marketed under the cooperative society's own name (as a brand). Besides, it has been mentioned in the project proposal that every cooperative society will be linked with the e-commerce platform of the Directorate of Cooperatives.

A fund of two crore Taka will be created in each village society for distribution among the members of the society. Any member will get an interest-free loan facility of up to 50 thousand taka on a demand basis after training under the project. However, it has been proposed to give loans up to Tk 2 lakh to the entrepreneurs of agricultural products and the food processing sector. However, the loan has to be returned with 3 percent service charge. Installments will start six months after taking the loan.

Under the project, there will be a two-story community building on an area of 3468 sq.ft where there will be Bangabandhu Library, Bangabandhu Corner, Community Hall, Training Room, Digital Service Centre, Agricultural Products Storage and Exhibition Centre. Even if they are model villages, poverty will not be eradicated in the villages. The poverty rate is expected to come down to 7 percent as per the project proposal. The Directorate of Cooperatives has set this target to reduce the poverty rate considering the poverty rate of pre-Covid countries. According to the latest (2019) Bangladesh Bureau of Statistics (BBS)

estimates, the poverty rate in the country is 20.5 percent. But post-Covid, the poverty rate in the country has increased to more than 40 percent, according to a survey by several research organizations.

Among the ten villages selected for the pilot project, seven divisions are in Dhaka and two villages each are in the Dhaka division. These are; Patgati-Sriramkandi of Tungipara in Gopalganj district, CharbhagaMiarchar village of Vedragganjupazila of Shariatpur and Honabad of Gournadi in Barisal and Char commissioner village of Muladi. Besides, Charbhatiani in Madarganjupazila in Jamalpur, Pomgaw, in Manoharganj in Comilla, Dungria in Sunamganj, Parala in Minarampur in Jessore and Ratia in Mithapukur in Rangpur.

An expenditure of around 50croresTakahas been proposed to implement the project. The project is targeted for completion in 2024. Out of the total 500 jobs that will be created in each village of the project, 30 percent, or 150 are women.

Along with the implementation of the project, the cooperative directorate said that to ensure a total of 17 services, including health, education, electricity, and ICT at the upazila level, the cooperation of the related departments will be required.

### **Model Village of LGED in Haor area**

The Local Government Engineering Department (LGED) wants to establish model villages under the infrastructure and quality of life development project in the Haor region. Under this ongoing project, there was initially a plan to pilot five model villages. Later, the organization decided to set up 2 model villages due to implementation complications.

Chandegaon in Bisambar of Sunamganj and Hamidpalli of Mithamain in Kishoreganj has been identified as model villages.

Along with infrastructure development, initiatives will be taken to improve the quality of life, socioeconomic development, and education quality, reduce food shortage and increase income in the Haor area in the model village. Emphasis should be placed on growing income-generating activities, expanding small businesses, achieving self-reliance, creating employment, increasing transparency, establishing unity, mental development, social development, poverty alleviation, capital formation and women empowerment.

### **Methodology**

#### ***Study Methods***

The research was conducted using qualitative and quantitative methods, incorporating exploratory and descriptive data. Data was collected from various people living in rural areas.

***Study Area***

Data was collected from two villages in the Cumilla district.

***Data Collection***

A checklist was prepared for data collection from each selected Union Parishad to understand the types of services provided by Union Parishad and expenditures in various development sectors. There will be two focused group discussions, two with UP officials, two with union-level employees from the nation-building department, two with youths, and four with adults.

***Key findings & suggestion***

The information that emerged from the village focus group discussion is very surprising. No one wants to leave the village “The open field, the sky kisses the forehead, but the feet are dust, Small villages are nests of shadow-encrusted peace” (অবারিতমাঠ, গগনললাটচুমেতব পদধূলি, ছায়া-সুনিবিড়শান্তির নীড় ছোট ছোট গ্রামগুলি) (ঠাকুর, রবীন্দ্রনাথ, ২০২০) like Rabindranath's poem and move to the city or abroad. The facilities that will remain in the village have been observed very carefully.

**Transformation of Education**

The number of unemployed people in villages is increasing day by day in the formal education system. If they can be given technical education and employment in the village, then those who will not migrate from the village to the city or abroad. And when going abroad, skilled human resources will be exported abroad. The country can earn foreign currency, which will significantly enrich our remittance flow.

In the village, individual-centered financial solvency means they can provide their children education in a better environment. And the village can create a better learning environment. The government can spread the education system to rural areas by decentralizing it. That is to say, to compel those educational institutions providing good quality and quality public and private primary, secondary, higher secondary and higher education in the city to open branches in the villages by enacting laws. and maintaining the quality of education by providing adequate human resources. In that case, the village's people will get the city's services.

**Setup Food Processing Industry**

On the other hand, we have agricultural villages. A lot of vegetables are produced in the village during the peak season, but due to the lack of proper prices, the farmers sell the product at very low prices or destroy the product on the ground. Mainly as winter vegetables are produced more than our demand, the demand for the product is very high in the market at

a certain time. Farmers do not get the real price as supply is more than demand. In that case, it is possible to supply products to the country and international markets throughout the year by maintaining the quality of the products by having a regional food processing industry. On the one hand, the educated unemployed will get employment in the village and on the other hand, the farmers will get the proper price for the products. On the other hand, the product will play a unique role in GDP.

In that case, the government can build these institutions by providing very low-interest loans through green financing. Loans will be given only to those who have received proper training from training institutes established in the area affiliated with the government. When the people of the village become financially sound, then individual-centered infrastructure development will be achieved. Government should ensure proper provision of roads, technology and electricity to facilitate the supply of goods.

### **Implement Rural compact housing law**

In 2041, the country's population may reach 22 crores. The country's agricultural land is currently decreasing at a 0.5-1 percent rate. A large part of it is being converted into housing. If this rate continues due to the reduction of agricultural land, food security will be disturbed and the biodiversity of the village will be destroyed.

Therefore, a plan will be taken to construct a compact township consisting of multi-storied buildings ensuring all civic amenities in populated villages. As a result, road electricity, other infrastructure construction and maintenance costs will be significantly reduced. Villages will become flood free easily. If such an ideal village has schools, hospitals and clinics, education and health services can be provided easily. Agricultural land will be saved and the country will remain livable in the long run. For this reason, a plan has been taken to verify the feasibility of rural housing or compact housing.

### **We have to think holistically to take all the civic benefits of the city to the village**

We have to go step by step through decentralization. All facilities of the city, including the creation of employment opportunities, and health education, must be ensured at the district level first. Then these facilities must be taken to the upazila level. And in this way, we will be able to get closer to establishing my model village. As a result, the human pressure in big cities will be reduced.

### **Improvement of entertainment and medical Services**

Parks and community centers should be built to conduct recreation and social functions in the village properly. There is no park in the village to entertain children. So parks can be established. In that case, the



infrastructure should be built keeping the rural history and tradition in mind. In the village, the financial solvency of the people in all areas is not equal. For proper maintenance and beautification of the ponds in the village, integrated circular roads can be constructed along the pond roads with financial contributions from the government and individual and partnership levels. On one hand, the ponds will continue to exist, on the other hand, the beauty will blossom and people will be health conscious.

Village people have to come to the city to get medical facilities. Decentralization is essential in setting up hospitals to provide medical facilities to the people in the villages. The government should compel the appropriate authorities to establish hospitals in rural areas instead of centrally located in urban areas. A notification may be issued stressing the ease of obtaining loans and lower interest rates for setting up hospitals, especially in rural areas.

### **Establishment of upazila employment office**

It is very difficult to procure the labor required for village agriculture and infrastructure construction from one's village. Especially in the Comilla region, workers come from North Bengal. Also, the shortage is met by own labor of neighboring districts and Comilla. Generally in Comilla region Kandirpar, Railway Station, Paduar Bazar Bishwaroad, Comilla Cantonment Saheb Bazar, Kangshnagar, Devidwar, which gathers in places related to market and bus station. But there is no specific place for them to stand or sit. Many times brokers are seen in these places. During my stay in South Korea, I saw that there are zone-based offices to ensure the proper utilization of human resources. These workers register through proper registration. From there the local government gets a fixed amount and the broker who acts as media through the office gets a percentage. Suppose such a system is added to Bangladesh, on one hand. In that case, the proper utilization of human resources will be ensured, on the other hand, government revenue will increase & entrepreneurship will be developed.

### **Expanding areas of local government revenue growth**

Although there is talk of strengthening the local government, the revenue generated from various types of haat bazaar, and birth registration at the union level is deposited in the central government. In the case of birth registration, the fee set by the government is only collected by the central government. But four to five times the amount is collected at the customer level, which has no record. Hence local government can be strengthened by ensuring proper fee collection in the light of transparency and accountability by ensuring governance. Also, all the CNG stations at the village level are collected unannounced as a type of gate pass. which is out of order. But the CNG drivers are forced to pay the amount. That

money is going into the pockets of a certain class of people. If the said money can be collected through the local government through legal legislation, then the financial capacity of the Union Parishad will increase.

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## Exploring Factors for Motivation to Transfer of Training

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### **Abstract**

*Bangladesh Public Administration Training Centre (BPATC) and Bangladesh Civil Service Administration Academy (BCSAA) are responsible for providing training as a means of capacity development for the civil officials. The government has made training and development the highest priority, investing much in this domain. Motivation for the transfer of training has many folds; therefore, this study aims to identify the factors for motivation to transfer training and find out the relationship of influencing factors for motivation to training transfer. The research took a quantitative method. The respondents have worked in the field and have received training from either BPATC or BCSAA or both training organizations. Using standardized questionnaire item scores ranging from "strongly agree" to "strongly disagree," data was collected from respondents. This study employed a purposeful random sampling approach. An online questionnaire (emailing) was circulated to 1800 participants who had received training from BPATC and BCSAA. A total of 307 respondents participated in the study. Principal Component Analysis/factor analysis was used with SPSS tools to discover the elements influencing the desire to transfer training. There were a total of eight variables found, including significant factor loading and commonalities. After that, a simple regression analysis was performed to determine the components that impact motivation to transfer training. Furthermore, a correlation matrix was created to investigate the connection among the variables. The regression model is significant, according to the results. Furthermore, some factors have a positive impact on motivation to transfer training.*

**Keywords:** Motivation, Transfer of Training, PCA, BPATC, BCSAA

### **Introduction (Background& Statement of the Problems)**

The investment in human resource development has been overemphasized, where the significance of training is infinite in building

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efficient human resources (Tabassi & Bakar, 2009). The effectiveness of a training programme mostly depends on the transfer of training (Islam & Hosen, 2021). Thus, training is always considered a tool for enhancing the different levels of employees in different sectors. Training organizations are providing different types of training programmes for their designated employees. Public sector training organizations have the mandate to organize training programmes for a specific level of people (Islam, Asrafujjaman, & Hosen, 2022). The upshot of the training programme is to build the capacity of trainees in terms of skill, knowledge, and work behaviour (attitude) for rendering services towards service seekers (Noe & Schmitt, 2006). There is no doubt about it; if we want to obtain SDG goals by 2030 (UN, 2015), developing the capacity of a government employee is a must. Thus, it requires the motivation to learn and transfer training. Participants of different training courses received new skills and new knowledge and built their aptitude for day-to-day work in their respective working fields. Training institutions are also providing several training programmes as per their training calendar. Courses are determined from the top level of government decisions.

Government has a training policy (Hasan, 2009), and one of the primary objectives of this policy is to develop government employees' capacity for performing their duties at an efficient level (Vinesh, 2014). Rendering to the government employees' level or status, training programmes are set accordingly. The effectiveness of those training programmes depends on how the knowledge, skill, and attitude (Vinesh, 2014; Islam & Hossain, 2019) are obtained from training programmes and their uses in the field. Therefore, the transfer of training has an impact on the training effectiveness and motivation of trainees. Bangladesh Public Administration Training Centre (BPATC) and Bangladesh Civil Service Administration Academy (BCSAA) have the mandate to impart training to civil servants (Islam & Hossain, 2019). The government has given priority to training and development and means it, investing a lot in training purposes (UN, 2013).

It is needless to say that we have to achieve SDG by 2030 (UN, 2015), and there is no other alternative to develop human capacity without ensuring quality education and training (Hosen & Islam, 2023). Thus, best practices of human resources and their development are a must. Obtaining excellent performance and accelerating our economy requires value-adding training programmes for organizational performance in every sector (Noe, 1986; Baldwin & Ford, 1988). The motivation for training transfer not only depends on individual attitude or individual accomplishment from the training courses. Many factors are involved with training transfer. First of all, we have to look at the relationship

between training and career planning or career development; motivation of training transfer and training curricula or its delivering methods (Blume, Ford, Baldwin, & Huang, 2010); training behaviour and practices in the field; training recipient and supervisor attitudes or relationship (Perloff, 2016); opportunity to perform training learned at the workplace (Powell, 2011). In public sector organizations, training and motivation to learn and transfer training are given less emphasis. The government has formulated a policy of 60 hours of training at all levels during a calendar year. Still, linking with this skill and career is given less value for individual growth. Therefore, the outcome of this programme needs to find out and examine.

Bangladesh Public Administration Training Centre (BPATC) is a regional hub for public sector training institutions. One of the significant functions of BPATC is to provide practical, inclusive, and self-mandated quality training for civil servants at all tiers of government officials (Islam & Hossain, 2019). BPATC, to some extent, is significantly diversified as well through organizing academic workshops, seminars, foreign exposure training visits, organizing seminar on development economics, and development administration (Islam, Asrafujjaman, & Hosen, 2022). Moreover, the organization has its mandate to organize and manage research work and administration, management, economics, gender & development, training & development, and the environment. Besides these, the centre also arranges international conferences and seminars on public administration and related issues. In a nutshell, the centre aims: to equip future leaders and policymakers with the background necessary for a broad understanding of varied social, economic, political, environmental, scientific, and organizational aspects involved in the planning of national policies and strategies. In addition to focusing on 3Es—efficiency, economy, effectiveness, and social equity (Wooldridge & Bilharz, 2017), the centre embraces equity, responsiveness, inclusiveness, accountability, innovation, and collaboration. In line with the aim of BPATC has become a centre of excellence for developing patriotic competent and professional civil servants who are dedicated to doing work for the government's interest. BPATC does arrange several training courses. Since its inception (1984), the centre has turned into a trusted home of training for the officials of government, and autonomous and non-government organizations. Among the courses conducted by the centre, the Foundation Training Course (FTC) is for the new entrants to the Bangladesh Civil Service (BCS), while Advance Course on Administrative and Development (ACAD) is for mid-career Deputy Secretaries. Their equivalent, on the other hand, Senior Staff Course (SSC) is for the Joint Secretaries and equivalent officials from Defence Services and Police, while Policy Planning and Management Course

(PPMC) is for the Additional Secretaries (BPATC, 2021; Islam, Asrafujjaman, & Hosen, 2022).

Moreover, many skilled-based short courses are also offered by the centre. Now the question arises, whether the training outcome is transferred or not. Researchers or academicians have done studies on training effectiveness, training evaluation, training-to-need analysis, and training methodology work; a few studies are found on motivation to transfer training. Thus, this scope has made an ample opportunity to do research motivation to transfer training from the BPATC side and BCSAA.

Since its inception, Bangladesh Civil Service Administration Academy (BCSAA) is organizing training courses for civil servants. The academy provides five-month-long basic training related to law and administration for newly appointed officers of the Bangladesh Civil Service (Administration) cadre and various periodical training requirements for officials of different levels (BCSAA, 2021; Islam, Hosen, Hoshen, & Alam, 2022). The Academy has provided various training, including Foundation Training Courses to different cadre service officers of the government (BCSAA, 2021). Apart from training courses, the academy works on administration, governance, management, and development along with publishing journals, books, and magazines. The academy provides various training on administration, management, government procurement, information, communication technology, increase in English language proficiency, ethics, ideals, values, and corruption prevention to develop government officials of various levels as skilled, capable, self-motivated enthusiastic (BCSAA, 2021; Islam, Hosen, Hoshen, & Alam, 2022). It is essential to measure training effectiveness and transfer training. Trainees are receiving training input from the academy, and how much those inputs are used at their workplace should be measured. Therefore, this study has brought fruitful results and guidelines for motivation to transfer training.

Thus, the presentation of the article includes an introduction, problem statement, significance of the study, the concept of motivation to transfer of training along with the conceptual framework, and study research questions; later on, describes the study material and method; in addition to that data analysis and interpretation are also presented and finally conclusions are drawn in this article.

## **Elements of Training Transfer and Conceptual framework**

### ***Training Content***

Training content is one of the essential factors for training transfer (Bhatti, Ali, Isa, & Battour, 2014). The relevant content is always

appreciating the parameters of implementing acquired knowledge from a specific training program. According to the training needs assessment, training organizations are ready to redesign their training curriculum and content (TNA). Still, sometimes training needs assessment does not reflect on the training program design, which ultimately impacts the training transfer procedure.

### ***Training Methods***

Training methods have changed depending on the understanding, organization, and morally flavoured concepts (Meuwese, 1973 ). Study and practice have identified numerous core training methods, such as case studies, lectures, simulation, exercise, game-based study, internship, job rotation, job shadowing, mentoring and apprenticeship, programmed instruction, role-modelling, role-play, stimulus-based training, and team training(Martin, Kolomitro, & Lam, 2013). These training methods play a crucial role in human resource development and organization.

### ***Self-efficacy***

Self-efficacy is considered the intellectual power of somebody by which s/he can confront the challenges to reach the goal. To Albert Bandura, self-efficacy is “how well one can execute courses of action required to deal with the prospective situation”(Bandura, 1982). Self-efficacy influences human activities to overcome ahead challenges and acquire success. Thus, it is an important element of training transfer.

### ***Supervisors’ Support***

Supervisors’ support is “the extent to which leaders value their employees’ contribution and care about their well-being”(Powell, 2011). So, supervisor support is indispensable for successful training as it assists collaboration, cooperation, and teamwork to learn and transfer knowledge by taking care.

### ***Career Commitment***

Career commitment means the individual dedication to their job and performing duties according to their job description. Career commitment correlates with career satisfaction, self-efficacy, and institutional commitment (Ahmed, 2019). Thus, career commitment plays a significant role in training transfer.

### ***Attitude***

Attitude is the manner, feeling, and position of a person. The Cambridge Dictionary has defined attitude as “a feeling or opinion about something or someone, or a way of behaving (Dictionary, 2020). According to Perloff, “attitude is a psychological construct, a mental and emotional entity that inheres in or characterizes a person”(Perloff, 2016).

### ***Awareness of Strategic Link***

A strategic link is vital for understanding the organizational goals and training objectives. Scholars said that “awareness of strategic linkages identifies the degree to which trainee is capable of creating a bridge between the acquired training skills and the strategic goals of the organization”(Arefin & Islam, 2018). Employees or trainees should have consciousness regarding the tactical linkage of training perspective for increasing organizational performance.

### ***Opportunity to Perform***

The phrase "opportunity to perform" means a trainee's ability to learn relevant skills and knowledge for utilisation at the workplace. It has been considered one of the critical aspects of transferring knowledge (Baldwin & Ford, 1988). Thus, it requires individual capacity and application ground in the job sector.

### ***Accountability***

Accountability means the liability, answerability (Dykstra, 1938), and responsibility for which a person or organization will be assessed for their actions. Williams said that “accountability is the acknowledgement and assumption of responsibility for actions, products, decisions and policies”(Williams, 2006). It is one of the important elements of training transfer.

### **Research Question**

This study is to investigate the research questions, which will reply to the study objectives. These are as follows:

- a) What are the factors that influence motivation to transfer of training? Do those factors motivate the transfer of training? If so, to what extent are those factors influenced by the motivation to transfer of training?
- b) Is there any relationship between those factors with motivation to transfer of training? And how are they linked (level of relationship) with motivation to transfer of training?

### **Material and Method**

#### ***Methods of the Study***

This study has considered all eight administrative Divisions. Thus, divisions were selected purposively. Sample framing will be considered randomly, who have received BPATC or BCSAA or both and working in different sectors of public administration and public sector offices. For this study, a random sampling tool has been used for data collection through a structured questionnaire survey. Eligible respondents have



received training from BPATC or BCSAA, or both. Due to COVID-19, a physical data collection model was not possible, so the study went for an online and email survey. Online survey links were distributed among the participants as respondents through email. In that case, email addresses were taken from participants' email directories made by BPATC in their batch-wise training 'Souvenir' publication as a personal datasheet. The sample size is determined by using Yamane's (1967) formula. However, this study is entirely based on the quantitative method. Yamane's mathematical formula is considered to determine the sample size. Taro Yamane's (1967) formula:  $n = \frac{N}{1 + Ne^2}$ .

Altogether, 1800 questionnaires were sent to the respondent through email online (monkey survey). We received a valid 307 questionnaires, which is 17.05% of the surveyed population.

### ***Sources of Data and Methods of Data Collection***

Both primary and secondary sources were considered for data collection. Trainees of different courses who have Foundation Training Course from BPATC or Special Foundation Course and working at the field level or working in their respective ministry were considered respondents of this study. Existing rules and relevant documents are consulted as secondary sources of data for the study.

### ***Data Collection Tools***

A structured Questionnaire with scale variables measurement items was designed and administered by emailing and an online survey among the respondents for primary data collection.

### ***Data Analysis and Presentation***

This study is explanatory and confirmatory; a significant portion of primary data was collected through a questionnaire survey. According to the study's conceptual framework and literature review, several questionnaire items were used. Therefore, Principal Component Analysis/factor analysis was performed by using SPSS statistical tool. The regression analysis has also been performed with other descriptive statistics to get impact results, and its variance explained motivation to transfer training correspondence with dependent and independent variables. However, for this study, exploratory factor analysis was run to identify significant factors for motivation to transfer training. From regression, standardized coefficient values and significance levels confirmed the impacting factors for motivation to transfer training.

### ***Study Variables***

#### **4.0.1 Dependent Variable**

In this study dependent variable is 'motivation to the transfer of training (MTT)'. This variable is measured with six items. These are: 'use of

knowledge & skill at the job'; 'set goal link with knowledge & skill'; 'overcome barriers through knowledge & skills'; 'apply of new knowledge & skills; 'job performance'; 'reward for performance'.

#### 4.0.2 Independent variables

Independent variables and their items of this research are given below:

- a) **Training Content (TC):** 'need-based training contents; 'training program according to job requirement'; and 'training contents according to organizational need'.
- b) **Training Method (TM):** 'training program is similar to real-life job'; 'learning cases are relevant to job'; and 'training contents & materials are linked with job requirement knowledge'.
- c) **Self-efficacy (SE):** 'confident to apply new knowledge & skill'; 'development of expertise' and 'confident for obstacles'.
- d) **Career Commitment (CC):** 'training & career commitment'; 'KSA & career development; and 'training transfer & job career'.
- e) **Supervisor Support (SS):** this variable is measured with five items: 'supervisor encouragement to attend training program'; 'resource support from supervisor'; 'skill practices'; 'support for problem-solving from supervisor'; 'and 'recognition for using new competencies at the job'.
- f) **Peer Support (PS):** This variable is measured with five items. These are: 'co-worker encouragement to learn new knowledge'; 'colleague participation in applying new knowledge'; 'supporting selection co-worker'; 'new idea acceptance' and 'using new ways of doing things'.
- g) **Opportunity to Perform (OP):** Measurement is: 'right job for utilizing knowledge & skill'; 'logistics support'; 'managerial support'; and 'apply training skills repeatedly in organization'.
- h) **Awareness of Strategic Linkage:** Items are: 'Content need-based for organization'; 'training program as per career development plan'; 'innovative training content for implementing SDGs'; 'training content according to e-Government & eService delivery'; and 'strategic linkage between training performance and promotion.
- i) **Accountability (ACC):** Items are: 'aware of organizational expectation'; 'obligation to utilize learning'; 'disseminate learning'; 'and 'performance reflection in ACR'.
- j) **Attitude towards training (ATT):** Items are: 'keen of training program'; 'individual training needs to be attended'; 'career goal'; and 'applicability training on the job'.

## Data Analysis, Key Findings and Discussion

### *Factor Analysis*

According to the study objectives, factors of motivation to the transfer of training are to be identified. Therefore, the study requires running factor analysis to find out factors associated with motivation to transfer training. The precondition of factor analysis is to find out or check the Kaiser-Meyer-Olkin measure for sampling adequacy and KMO and Bartlett's test confirmed that factor analysis or principal component analysis can be run further as the result of KMO is more than .70, study result is found .920, which revealed that good fit for PCA (Principal Component Analysis) or factor analysis. In the following Table- 1, KMO result is presented.

**Table 1:** KMO result

<b>KMO and Bartlett's Test</b>		
Kaiser-Meyer-Olkin Measure of Sampling Adequacy.		.920
Bartlett's Test of Sphericity	Approx. Chi-Square	1.053E4
	Df	990
	Sig.	.000

### *Factor items Communalities Result*

Before extraction of the rotated matrix, items factor loading is performed extraction, the result revealed that all the items are found high loading values. The main principle of using communalities value is to assess how well each variable is explained by the factors. The better variable is explained by the factors if the communalities value is closer to 1. In the following Table-2 communalities value is presented and found that variable items are having more than .50, and many of them are closer to 1. Thus, the result revealed that communalities area good fit to explain factors.

**Table 2:** Communalities

Variable Items	Initial	Extraction
TC1: The contents delivered in the training program (s) are sufficientto meet my individual training needs	1.000	.582
TC2: The contents delivered in the training program (s) are sufficientto meet my job requirements.	1.000	.708

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TC3: The contents included in the training program (s) are sufficient to meet the needs of my organization.	1.000	.608
TM1: The way I have been taught in the training program is similar to the real-life I use on the job.	1.000	.729
TM2: The trainers used sufficient cases and examples that showed me how I could use my learning on the job.	1.000	.692
TM3: The way the trainers delivered materials and exercise sheets made me more confident in applying the learning on the job.	1.000	.690
SE1: I am confident enough in my ability to apply newly-learned knowledge and skills.	1.000	.679
SE2: I am confident that I can develop expertise in the knowledge and skills learnt from the training.	1.000	.765
SE3: I am confident that I can overcome any obstacles I face when applying the new knowledge or skills learnt in the training.	1.000	.644
CC1: The training I have attended is relevant to my career commitment.	1.000	.638
CC2: The KSA obtained from the training program is helpful for my career development.	1.000	.573
CC3: The level of transfer of training is positively connected with my career and job.	1.000	.657
SS1: My supervisor encourages me to attend the training program.	1.000	.576
SS2: My supervisor provides resources needed to apply new competencies acquired from the training.	1.000	.660
SS3: My supervisor provides the time needed to practice the skills learnt in training.	1.000	.756
SS4: My supervisor provides support when I have problems applying the new competencies.	1.000	.694
SS5: My supervisor gives recognition and credit to those who apply new competencies to their jobs.	1.000	.651
PS1: My co-workers encourage me to learn new knowledge and skills from the training program.	1.000	.751

PS2: My colleagues actively participate with me when I apply new knowledge and skills acquired in the training.	1.000	.738
PS3: Experienced co-workers of my section/branch/wing/group are found supportive of me when I use new learning on the job.	1.000	.725
PS4: My colleagues accept and encourage new ideas (learned from programs) shared by me.	1.000	.802
PS5: My co-workers generally prefer to use new ways of doing things learned in training, rather than using existing traditional methods.	1.000	.708
OP1: I have been placed in the right job so I can get opportunities to utilize my acquired knowledge and skills.	1.000	.714
OP2: At my work, I have enough access to logistic support (equipment, information, materials, budget, and supplies) to help me apply the new knowledge and skills that I have acquired from the training program.	1.000	.713
OP3: I get the necessary administrative/managerial support for "selling" and sharing my new ideas and initiative in my organization.	1.000	.775
OP4: I will have the opportunity to apply trained skills repeatedly in the organization.	1.000	.781
ASL1: The issues and contents covered in the training program(s), were as per the needs of the organization.	1.000	.749
ASL2: The training program (s) were designed according to the career development plan of my organization.	1.000	.788
ASL3: The contents of the training program (s) contributed to learning innovation and SDGs implementation strategies of government.	1.000	.638
ASL4: The contents of the training program (s) contributed to learning e-governance and online service delivery strategies of the government.	1.000	.685
ASL5: The strategic linkage between training performance and promotion-placement encouraged	1.000	.766

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me to learn as well as apply.		
ACC1: I am aware of the organizational expectations for the competencies I have acquired from the training program.	1.000	.707
ACC2: I feel the obligation to utilize the learning obtained from the training program.	1.000	.730
ACC3: I know that I have to provide a detailed presentation/report on the KSA learned from the training program.	1.000	.663
ACC4: My supervisor generally gives attention to my level of utilization of learning from training which also reflects in ACR.	1.000	.568
ATT1: I was very keen to attend the training program.	1.000	.596
ATT2: The training program (s), I attended, fulfilled my training need.	1.000	.721
ATT3: The training program(s), I attended, would fulfil my career goal.	1.000	.641
ATT4: The learning, I obtained from the training program(s), would be easy to apply on the job.	1.000	.648
MTT1: I intend to use the knowledge and skills acquired from the program when I get back to the job.	1.000	.624
MTT2: I set specific goals for maintaining the knowledge and skills that I have learnt from the program.	1.000	.655
MTT3: I generally overcome the potential barriers to using the knowledge and skills that I have learnt.	1.000	.623
MTT4: My job performance improves when I apply the new knowledge and skills that I have learned from the training program.	1.000	.662
MTT5: I feel encouraged when I experience improved jobperformance.	1.000	.673
MTT6: The reward (if any) offered to me for my improved performance is valuable to me.	1.000	.627

### *Principal Component Analysis*

There were 44 items of all factors. Two items are not extracted; thus 42 variable items are run to perform Principal Component Analysis. PCA reduced 8 factors with 42 items. The factors are renamed with Factor 1: training link with career commitment; Factor 2: peer support; Factor 3: Awareness of strategic linking; Factor 4: attitude; Factor 5: motivation; Factor 6: Capacity (knowledge & skill); Factor 7: accountability; and Factor 8: support staff. All the items are having high loading factors. Loading factors are presented in following Table 3 and coding is explained in the communality Table before (Table 2).

**Table 3:** PCA with VARIMAX Rotation on motivation to training transfer

	Factor-1	Factor-2	Factor-3	Factor-4	Factor-5	Factor-6	Factor-7	Factor-8
Factor Name	Training link with Career Commitment	Peer Support	Awareness of Strategic linking	Attitude	Motivation for TT	Capacity (knowledge & skill)	Accountability	Support Staff
TC1	.667							
TC2	.559							
TC3	.664							
TM1	.579							
TM2	.668							
TM3	.705							
SE1	.617							
SE2	.733							
SE3	.547							
CC1	.575							
CC2	.577							
SS1								.547
SS2								.508
SS3		.651						
SS4		.624						
SS5		.638						
PS1		.733						
PS2		.750						
PS3		.769						
PS4		.796						
PS5		.671						
OP1			.747					
OP2			.530					
OP3			.784					
OP4			.760					
ASL			.701					

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2								
ASL 3			.522					
ASL 4			.524					
ASL 5			.643					
ACC 1							.550	
ACC 2							.636	
ACC 3							.566	
ACC 4								
ATT 2				.746				
ATT 3				.731				
ATT 4				.540				
MTT 1						.526		
MTT 2						.709		
MTT 3						.573		
MTT 4					.549			
MTT 5					.787			
MTT 6					.783			

Extraction Method: Principal Component Analysis.

Rotation Method: Varimax with Kaiser Normalization.

a. Rotation converged in 10 iterations.

### *Descriptive Statistics*

In the following Table-4 factors mean value and the person correlation were run to find out the relationship among all the 'motivation to transfer of training' variable items. The result revealed that items are a significant relationship and the degree of their association is high. The correlation results suggest that variables are possible to fit and explained with high correlation.



**Table 4: Correlations**

variable	Mean	S.D	Factor _1	Factor _2	Factor _3	Factor _4	Factor _5	Factor _6	Factor _7	Factor _8
Factor _1	3.89	.63232	1	.568**	.581**	.547**	.191**	.387**	.531*	.522*
Factor _2	4.12	.70711	.568**	1	.614**	.431**	.247**	.359**	.493*	.613*
Factor _3	4.01	.77047	.581**	.614**	1	.562**	.288**	.416**	.564*	.470*
Factor _4	4.02	.73126	.547**	.431**	.562**	1	.233**	.584**	.464*	.309*
Factor _5	4.38	.57710	.191**	.247**	.288**	.233**	1	.527**	.278*	.254*
Factor _6	4.15	.62523	.387**	.359**	.416**	.584**	.527**	1	.461*	.264*
Factor _7	4.14	.73789	.531**	.493**	.564**	.464**	.278**	.461**	1	.422*
Factor _8	4.12	.81383	.522**	.613**	.470**	.309**	.254**	.264**	.422*	1

\*\* . Correlation is significant at the 0.01 level (2-tailed).

### **Regression Analysis**

Eight independent variables are entered in this equation, where 'motivation to transfer of training' is the dependent variable. therefore, the model is specified with those eight factors for motivation to transfer of training.

**Table 5: Variables Entered/Removed**

<b>Variables Entered/Removed<sup>b</sup></b>			
Model	Variables Entered	Variables Removed	Method
1	Factor_8, Factor_6, Factor_7, Factor_4, Factor_2, Factor_1, Factor_3 <sup>a</sup>		Enter

a. All requested variables entered.

b. Dependent Variable: Factor\_5

### **Regression Model Summary**

The regression model summary explained that the variables are significant relation (r-value .562), where R-square explained 31.6% of the total variance and adjusted R-square 30.0% of the total variance explained. The predictor variables are: (factors, 1, 2,3,4,6 and 7), where

the dependent variable was factor 5 (motivation to the transfer of training).

**Table 6:** Model Summary

Model	R	R Square	Adjusted R Square	Std. Error of the Estimate	F
1	.562 <sup>a</sup>	.316	.300	.48280	19.744
a. Predictors: (Constant), Factor_8, Factor_6, Factor_7, Factor_4, Factor_@, Factor_1, Factor_3					
b. Dependent Variable: Factor_5					

**Table 7:** Analysis of Variance Result

ANOVA <sup>b</sup>						
Model		Sum of Squares	df	Mean Square	F	Sig.
1	Regression	32.215	7	4.602	19.744	.000 <sup>a</sup>
	Residual	69.695	299	.233		
	Total	101.910	306			

a. Predictors: (Constant), Factor\_8, Factor\_6, Factor\_7, Factor\_4, Factor\_2, Factor\_1, Factor\_3

b. Dependent Variable: Factor\_5

Impact of Independent variables (factors) with the dependent variable (Motivation to the transfer training): Impact measured on motivation to transfer training as the dependent variable with predictor variables or independent variables. This coefficient result revealed that factor 3, factor 4 factor 6 and factor 8 positively and significantly impacted motivation to transfer training. The result also revealed that there is no multicollinearity problem as per tolerance and VIF result.

**Table 8:** Coefficients Result

Coefficients <sup>a</sup>								
Model		Unstandardized Coefficients		Standardized Coefficients	t	Sig.	Collinearity Statistics	
		B	Std. Error	Beta			Tolerance	VIF
1	(Constant)	2.247	.225		10.008	.000		
	Factor_1	-.081	.062	-.088	-1.292	.197	.488	2.049
	Factor_2	-.003	.057	-.003	-.048	.962	.462	2.166
	Factor_3	.096	.053	.128	1.812	<b>.071</b>	.458	2.184

Factor_4	-.133	.054	-.168	-2.469	<b>.014</b>	.493	2.030
Factor_6	.520	.056	.564	9.213	<b>.000</b>	.611	1.637
Factor_7	.011	.050	.014	.227	.821	.565	1.769
Factor_8	.098	.045	.139	2.191	<b>.029</b>	.570	1.755

a. Dependent Variable: Factor\_5 (Motivation to transfer of training)

## Conclusion

Motivation to transfer of training as independent variable is measured with 'training content' which is basically input of training; 'training management' refer to how training programmes is organized delivery point of view; 'self-efficacy' that refer to understanding of training new knowledge and ability to use it; 'career commitment' which is link with training recipient career path; 'supervisor support', most important to get supervisor support in case utilization of training output in practical work-life; 'peer support' work partner support is also important to use training knowledge and skill at workplace; 'opportunity to perform' which refer to work environment for utilization of training output at workplace; 'awareness of strategic linkage' refer to organizational need base training programme; 'accountability' which is essential, trainees should understand his or her role and have to perform as per job requirement; 'attitude towards training' overall believe, values and culture to use training output; . Therefore, attitude is everything to utilising training skills and knowledge for better work performance. These independent variables are shown a positive and significant link with motivation to transfer training. Descriptive inference statistic results are also shown that these independent variables are essential to the transfer of training. The regression result confirmed that the specified model is positively significant, which explained the 30% adjusted R-square value. Thus, the ten independent variables have an impact on motivation to transfer training. The coefficients result confirmed that among the ten variables, 'training management', 'career commitment', awareness of strategic linkage', 'accountability', and 'attitude towards training' are positively and significantly shown their impact or influences on motivation to transfer training. Moreover, these hypotheses are accepted for motivation to transfer training. Regression model correlation results and person correlation results confirmed that the variables have a high and significant relationship with motivation to transfer training. On the other hand, PCA extracted eight factors, which are explained 68.38% of the total variance in motivation to transfer training. Factor loading items with high values indicate that these are important for motivation to transfer training. Those factors are: 'training link with career commitment'; 'peer support'; 'awareness of strategic linking'; 'attitude'; 'motivation for the training of transfer'; 'capacity building (knowledge & skill)';

‘accountability’; and ‘support staff’. The regression result confirmed the best fit of the model, the coefficient result confirmed that “‘awareness of strategic linking’; ‘attitude’; ‘capacity building (knowledge & skill)’; and ‘support staff’ have a positive and significant impact on motivation to transfer of training.

Future Research: A significant number of trainees’ (civil servants) received training from both two reputed training institutions. Thus, the next study can be adopted with a large sample size, and apart from only the quantitative approach, the qualitative approach can be considered.

### **Conflict of Interest**

There is no conflict of interest concerning this research. This is an original research work, and it has maintained high ethical standards. The authors did not receive any funding for conducting, publishing, and disseminating this research work.

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### **Ethical Issues**

The rules of research ethics were followed in the conduct of this investigation. There was no disclosure of the respondents' personal information, and nothing negative happened while data was being collected in the field.

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## Gendered Tourism

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### **Abstract**

*The paper has explored the role of women and transgender in the tourism sector and also the motivation to join the sector through the lenses of gender by interviewing people (includes women, men and transgender). It was found that there is gendered tourism when it comes to join it as there are hardly any motivations provided to women and transgender whereas men*

*have more opportunities as compare to other gender despite of the fact that gender is socially created phenomenon and Covid-19 has increased inequality. Besides, there are some societal hurdles/stigma prevalent in the society for example- is it safe to work with transgender? Whereas in the case of women it was considered first whether the environment is safe where women are going to work or how are the people there in the working area of women? These are some of the reasons that limited the role of other gender people.*

*Special attention is given towards the tourism sector in Jammu & Kashmir region as there are barriers for men as well who are working in the tourism sector due to various reasons and least involvement of women was found which is different from northeast.*

*It can be concluded that awareness regarding the sector and for the gender becomes very crucial as tourism sector has potential of much growth -for the region itself and for the people engaged with the sector and it can be helpful in providing livelihood opportunities Inclusion of women and transgender will enhance the solidarity in the society ,make them empowered and also lead us one step closer to some of the sustainable development Goals like Goal5(Gender equality)and to economic growth with a quality social fabric of the society.*

**Keywords:** Women, Gender, Tourism, Sustainable Development Goals.

### **Background and Theoretical framework**

UNWTO depicted the tourism as a social, cultural and financial phenomenon which includes the movements and things to do by people

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travelling to countries and staying in locations that are not their normal place of residence environment for not longer than twelve months for fun, private or /work purposes and can have other different motives and motivations. These people are called visitors or sometimes either travellers or excursionists, residents or non-residents. Tourism is not same as travel and the term travel does not denote the term tourism despite of this fact these words are being used interchangeably. In order for tourism to happen, there should be a displacement: an individual has to travel, by using any type of means of transportation that includes even if someone might travel on foot which t is often the case of poorer societies and take place even in more developed societies, and concerns pilgrims, hikers etc.

According to Lamas (2000), the contemporary conceptualisation of gender, ‘alludes to the set of beliefs, practices, representations and social prescriptions that emerge amongst the team of people established on a symbolisation of the physical difference between men and women’. In that capacity, gender is socially developed and its specific expressions, along with masculinity and femininity, rely on the culture in which they grow, develop and social group they participated in. To recognise gender constructs, the specific cultural context in which they are developed ought to be understood. Gender can be modified like all social constructs however some gender transformations may be perceived as transgressing social practices considered as normal. People who epitomize sex dissidence usually face different difficulties in their daily lives, for instance, the people who are beyond conventional norms of gender such as transgender.

Many research studies have investigated how these difficulties are manifested in family, educational, work and healthcare contexts by people of different gender (Chang & Chung, 2015; Dispenza, Watson, Chung & Brack, 2012; Rodríguez Madera et al., 2015; Socías et al., 2014).

Tourism in one such sectors where involvement and live experiences of women specifically transgender are not much explored. Manifestations of Gender are frequent and intensely encounter with social gazes, so gender is more likely to have an influence on social interactions associated with the sector of tourism. Nonetheless, transgender people travel motivations and tourism experiences have been simply ignored. According to Muñoz, Bullón and Hanson (2009), this significance is based not solely on necessary work opportunities, business and entrepreneurship but also on its impact on well- being and life experiences of women. Furthermore, the United Nations (UN), defines gender equality as the fifth sustainable development goal as a central

issue for growth and development through its sustainable development goals (SDGs). Figueroa-Domecq et al. (2020) said that tourism is one of essential sectors for women and for transgender as well.

However women and men are provided with same laws that means that they must have equal rights both in social and business life so is right for tourism industry or tourism business, it is found that discrimination based on gender is often made in business life. It has been confirmed that gender biases in work life is found in all of the developed and developing countries has resulted from many complex and varied reasons together with economic, social and cultural reasons. Research studies done by Tribe (2006), Figueroa-Domecq et al. (2015), Pritchard and Morgan (2017), Mooney (2020) Figueroa-Domecq et al., 2020;

Moreno Alarcón and Cole, 2019; Costa et al., 2017 in tourism sector shows an increasing interest to the application of gender perspective .That's not confined to it but consisted of studies in marketing, human resources, entrepreneurship, development, planning and many more other areas.

At the same time, it is found and determined that this area of research study has a wide potential margin for development and improvement (Chambers et al., 2017 and Korstanje, 2018).

In addition to above noted findings of different research articles and studies WTO for the UN highlighted that the use of gender in tourism and both concepts together is an area that requires a deeper knowledge of the relationship between the participation of a extensive range of social actors, like scholars, entrepreneurs, employees, tourists, public administration and Non-Governmental Organizations, etc. (Pritchard, 2018). Although no or hardly any direct studies has been found on the topic of tourism and transgender but Guaracino ( 2011) found that with this broadening of the market, various niches have emerged within the tourism sector including gay tourism.

In tourism the social construction of gender has outcomes at three levels that is individual level, interactional and institutional (Segovia-Pérez and Figueroa-Domecq, 2018).

Risman (1998) described that these three levels are related to each-other, and can't be understood without understanding the other levels. At the individual level, the personal thought of the self as belonging to one gender or any other is considered. It is the manner by use of that people are arranged and created as women or men, it shape us in a way what we called as personality, as feminine or masculine self, in light of how we expect a number of behaviours, values, beliefs practices and preferences, qualities, and make selection on that behalf. As per Risman, 1998, At the

interactional level, men and women have to behave as expected from them by others depending on their gender, even when they occupy same structural positions. This is the thing that was portrayed by Eagly et al as “gender role expectations”. At last, the institutional level tell us about how the social, cultural and organizational constructions divide establishments and society in accordance to it by replicating gender differences like division of power, hierarchies and labour. The different one of a kind aspects of the institutional level are recognised with the maintenance of power and resources majorly by men. A very thin line is there between each level and how these three are associated to each other that should not be ignored.

As per professionals of ILO ,“we cannot immediately conclude that women are in the majority in tourism”, because the complete data of women working in the industry may actually be under-represented and much of the labour in the sector is under casual working relationships.

Research Director at the WTTC defined that, “ The records reflecting the share of women in the Travel & Tourism workforce is quite different from country to country. So, it is feasible to say that women hold almost half of all employments in T&T but it is tough to go much further than that on a worldwide scale without other research studies to support it but there is one thing that we do know is that female employment is majorly present in the low paying service jobs and clerical job sectors and much more efforts needs to be done to increase the number of women into senior administration positions”.

Women, who account for 54% of the tourism workforce, youth, and migrant workers with constrained or no access to social protection, are amongst the ones who are among those who are especially vulnerable to the impact of COVID-19 on tourism. They're also more vulnerable to part-time or casual work prospects. According to evidences COVID-19 is expected to have a disproportionately negative impact on women's economic and productive lives. Globally women save less than males because they earn less and have less secure jobs. capacity of women to absorb economic shocks is consequently more limited than that of men because most single-parent homes have limited access to social protections and obligations.

Low-wage workforce part of the tourism sector is mostly make up of women. Compounding these challenges is the high incidence of informal work arrangements in the tourism sector are due in part to its seasonality with weak regulations, enforcement, and labour organization.

According to Albayrak, the tourism industry is one of the most major industries where gender discrimination is found in business life. Despite the fact that the number of women employed in the industry, which

consists enterprises which provides a large range of different types of services, is roughly twice more than the number of men work there, women working in the industry are subjected to different practices and discrimination due to their gender. Until now, almost every study conducted by academics and international organizations have proven that women are facing discrimination in terms of their jobs, earning amounts, working conditions, promotion and internal social relations because of their gender. Giving women particular rights and responsibilities by taking into account their gender rather than their skills, educational levels, background, and experience constitutes the most apparent indication of discrimination. Providing best service to their customers is considered as the main basic aim of tourism sector in order to satisfy them and enhance their income and profitability along with this it is crucial for the future of the businesses to evaluate the employees in terms of their qualities rather than their gender within the industry.

### **Rationale**

Millions of people rely on tourism for livelihoods, and billions more are there to appreciate and embrace, enjoy their own and other cultures, as well as the natural world. In some cases. It can account for more than 20% share in a country's GDP and it is world's third largest export sector overall. The Covid19 epidemic has had a significant influence on tourism, affecting economies, livelihoods, public services, and opportunities on all continents. While it is critical to protect the livelihoods of those who rely on tourism on priority basis, it is also a chance for transformation, with a focus on leveraging its impact on places visited and building more resilient societies and businesses through innovative practices, digitalization, sustainability, and partnerships with different stakeholders.

So, the use of gender viewpoint in the understanding of tourism has shown notable differences between men, women and transgender for an extensive set of issues (e.g. employment, entrepreneurship and demand). Usually, as a result of societal stereotypes roles and the social construction of gender this variation changed into a disadvantage for the latter and more vulnerability. Consequently, tourism research helps with the identification, understanding and information dissemination needed so as to reduce gender inequality.

### **Objectives**

- To study the role of women and transgender in the tourism sector.
- To find the motivation to join the tourism sector by women and transgender.

### **Research questions**

- What is the role of women and transgender in the tourism sector?
- What are the motivations available to women and transgender to join the tourism sector?

### **Methodology**

20 people including men, women and transgender were selected as a subject by convenience sampling for the purpose of the study. Interviews were taken to understand the role and motivation by the people of different gender to fulfil the objectives of the study. Out of 20 people 4 were transgender, 4 people taken from Jammu and Kashmir and 4 people were from the North-eastern states of India. In total 8 men, 8 women and 4 transgender were included. For data collection, researcher has used the telephonic medium and email and descriptively analyzed it.

### **Key findings and discussion**

It was found that there is gendered tourism when it comes to joining of tourism sector as there are hardly any motivations provided to women and transgender whereas men have more opportunities as compare to other gender despite of the fact that gender is socially created phenomenon and Covid-19 has increased inequality further as different responsibilities of women were increased in domestic work while men were relatively burdened with less responsibilities at home that made them available less time for work and tourism is like any other sector that require time to work although there was flexibility in work timings as one can work in season or in different spheres of it like cooking for tourist , work by being a guide by telling them cultural or main geographical aspects of the region.

However, there have been rising issues gap between earning by men and women which now include the transgender and poor representation of different gender people at professional level and burden of work without pay in the tourism industry by women and least by transgender denotes that for equitable distribution of social and economic benefits, structural measures ought to be taken in all spheres of tourism work. Temporary nature of work and irregular timing of work was also one of the factors for limiting the role of women as family wanted for women to have permanent jobs that can secure their future with fixed timings of work preferably morning time.

One significant point need to be taken care of was found that almost all the respondents be it men or transgender had consensus on the opinion that women should not work as guide as it can be dangerous for them rather they should be involved in tasks like cooking or making craft for selling to tourists directly or to shopkeepers to sell these items to tourists.

Another striking contradiction was found in North Indian regions and North-eastern states that as women are given complete responsibilities of work like household chores, cooking, rearing children etc. whereas men are free from these responsibilities and it was comparatively more or less balanced in the North-eastern states.

Special attention is given towards the tourism sector in Jammu & Kashmir region as there are barriers for men as well who are working in the tourism sector due to various reasons like political reasons, geographical barriers, seasonality and cultural norms prevalent there and least involvement of women was found with no transgender involvement as per the recorded response from respondents which is different from the scenario present in the north-eastern states where involvement of women was found more than the men but hardly any transgender people involved there. Besides, there are some societal hurdles/stigma prevalent in the society for example- is it safe to work with transgender? Whereas in the case of women it was considered first whether the environment is safe where women are going to work or how are the people there in the working area of women? These are some of the reasons that limited the role of other gender people. No transgender involvement was found with no motivation for them but barriers that were more of prejudices and societal hurdles rather than of practical which could be sought. So, this plied that awareness about the transgender.

Especially ones who achieved success by overcoming shortcomings of their lives as transgender should be made available to the people of society to let them know about them and let them aware about transgender also motivated them to join the tourism sector like any other people of any gender. This showed that women had good opportunities in terms of motivations as compared to transgender but not as equal as men have which limited their role in the sector.

It can be concluded that awareness regarding the sector and for the gender becomes very crucial as tourism sector has potential of much growth -for the region itself and for the people engaged with the sector and it can be helpful in providing livelihood opportunities. Inclusion of women and transgender will enhance the solidarity in the society, make them empowered and also lead us one step closer to some of the sustainable development Goals like Goal5 (Gender equality) and to economic growth with a quality social fabric of the society. Besides, the findings of this study is limited as it included only few participants so generalization is not possible but it is certainly helpful in having idea of contemporary time that emphasis on the an urgent need to do more study on the role of transgender people in the tourism sector.

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