

actively assist the needy person in the following manner.

- (i) *Victim Support* – Many a time, justice Process has the potential of revictimising the victim. There is a perception that victims and witnesses are on trial rather than the suspect. Therefore, the victims have to be provided with legal assistance right from the police station till the end of the case. The services of a Para Legal Volunteer are vital in this context. He would ensure
 - (a) Lodging of prompt complaint to police
 - (b) Medical assistance to victim; and
 - (c) Suitable steps to protect victims and witnesses from intimidation and retaliation.
- (ii) *Document preparation* – Such as filing of F.I.R., presenting a Petition/Affidavit before Public Authority *etc.*
- (iii) Investigation of cases at Pre litigation stage;
- (iv) Recognize and evaluate relevant facts.
- (v) Obtaining necessary documents from Courts and offices.
- (vi) Helping the accused to seek bail and legal aid wherever necessary to defend him.

11. Last but not the least, a Para Legal Volunteer acts as a conciliator/mediator/counsellor in resolving the disputes, more particularly, family disputes. Family, the cornerstone of social stability is disintegrating. We need every means available to preserve family unity. Increasing incompatibility between husband and wife is leading to “escape” through divorce. He would try to resolve the disputes out of Court with a rights based approach.

12. Above all, Para Legal Volunteer is essentially a social activist who can add a legal perspective to a social issue and equipped with an ability to transform a social problem into a framework of legal case. He would bring to the notice of Legal Services Authority about any form of injustice in the society and ultimately a Para Legal Volunteer would help the National Legal Services Authority to take necessary steps by way of social justice litigation with regard to Consumer Protection, Environmental Protection, *etc.* which is one of the main objects of National Legal Services Authority.

13. To sum up, a Para Legal Volunteer would support and participate in the delivery of *pro bono publico* services directed towards implementing and empowering access to justice.

LEGAL AWARENESS

By

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An informed and aware citizen is the best index of success of our democracy.

Dr. Manmohan Singh

It is a presumption of law that ignorance of law is no excuse. In other words, no one can plead in a Court of law as defence that he was unaware of law. This presumption

of law creates a duty on the part of the Government to make the people aware of the laws. All the laws and the rules and regulations framed thereunder are published in the Government Gazette. The media also plays a useful role in educating people about their rights and duties. In spite of this, due to low legal literacy, a majority of the population is not aware of its rights and duties.

In *Sukdas's* case¹, in which right to free legal aid was treated as an inherent right of the persons under Article 21 of our Constitution, the Supreme Court made the following observations:

Now it is common knowledge that about 70% of the people living in rural areas are illiterate and even more than that percentage of the people are not aware of the rights conferred upon them by law. Even literate people do not know what are the rights and entitlements under the law. It is this absence of legal awareness which is responsible for the deception, exploitation and deprivation of rights and benefits from which the poor suffer in this land. Their legal needs always stand to become crisis oriented because their ignorance prevents them from anticipating legal troubles and approaching a lawyer for consultation and advice in time and their poverty magnifies the impact of the legal troubles and difficulties when they come. Moreover, because of their ignorance and illiteracy they cannot become self-reliant, they cannot even help themselves. The law ceases to be their protector because they do not know that they are entitled for the protection of the law and they can avail of the legal services programmes for putting an end to their exploitation and winning their rights. The result is that poverty becomes with them a condition of total helplessness. This miserable condition in which the poor find

themselves can be alleviated to some extent by creating legal awareness amongst the poor. That is why it has always been recognized as one of the principal items of the programme of the legal aid movement in the country to *promote legal literacy*.

A person would knock the doors of justice only when he knows about his rights. He will avail free legal aid as provided under the Legal Services Authorities Act, 1987, only when he is aware of such a provision. Legal literacy is, therefore, pre-requisite to Access to Justice. And one of the objectives of the Legal Services Authorities is to disseminate legal awareness among masses.

Lack of legal literacy makes the ignorant masses vulnerable to deception, deprivation and exploitation of all sorts. The ignorance of law comes in the way of people asserting their rights and discharging their obligations. It becomes a major obstacle to the successful implementation of any law and contributes to the violation of the law.

Article 39A of our Constitution gives a directive to the State to ensure that the operation of the legal system does promote justice on a basis of equal opportunity. It directs the State to provide free legal aid with the aid of suitable legislation or schemes. It also directs it to ensure that opportunities for securing justice are not denied to any citizen for reason of economic or other disabilities.

Legal literacy makes people aware of their rights and empowers them to fight for their rights. It helps in avoiding conflicting situations. It facilitates access to justice system. It helps in eliminating inequality and discrimination. Increase in legal literacy ultimately develops into a transparent and accountable Government truly based on the Rule of Law.²

1. AIR 1986 SC 991.

2. Dr. Manmohan Singh : Legal Empowerment of Communities towards Social Reforms and Revival of People's faith in Democracy, Nyaya Deep, Volume VI Issue 2 : April 2005, Pages 5-7 at Page 6.

Legal literacy cannot simply be understood as creating awareness regarding the rights of the people. Awareness as regards the remedies, the relevant institutions and the procedure required to obtain the remedies must also be created. This comprehensive education will provide the weaker sections of the society information required for assertion of their rights so that they may be able to take action and bring about a change in their circumstances.

Effective legal literacy can be achieved only when the information about the law is spread in a simplified form. The legal language of our country is primarily English. To ensure effective legal literacy, important laws which guarantee rights have to be simplified and translated into the language of the common man and must be made available to him. Booklets, brochures, pamphlets and attractive posters containing brief notes on important laws have to be brought out and distributed in all villages and slum areas in cities and towns.

The Preamble of our Constitution mandates not only justice in its legal sense but also social, economic and political justice and equality of status and opportunity. Nutrition, health, education and employment are the basic needs of our people. Our country has achieved self-sufficiency in food. The Government has several Welfare Schemes and has been spending thousands of crores of rupees on them. Even then, our children, women and elderly persons are weak and malnourished. One third of the people have to get to bed hungry every night. Millions of people live in conditions of poverty. Child labour continues. Parents force their children to beg or sell them for fulfilling basic needs.

In *Olga Tellis's* case³, in which the grievances of the homeless people were redressed, the Supreme Court described the litigants before it in these matchless words :

3. AIR 1986 SC 180.

Those who have made pavements their homes exist in the midst of filth and squalor, which has to be seen to be believed. Rabid dogs in search of stinking meat and cats in search of hungry rats keep them company. They cook and sleep where they ease, for no conveniences are available to them. Their daughters come of age, bathe under the nosy gaze of passers-by, unmindful of the feminine sense of bashfulness. The cooking and washing over, women pick lice from each other's hair. The boys beg, men folk, without occupation, snatch chains with the connivance of the defenders of law and order; when caught, if at all, they say : "Who doesn't commit crimes in this city?"

May be, the people do not know that the Government has employment generation schemes⁴. May be, the elderly destitute people, children, pregnant women and nursing women do not know their rights and about the schemes made for their welfare⁵.

On 6-3-2005 the Prime Minister under the aegis of the National Legal Services Authority launched National Legal Literacy Mission. The National Legal Services Authority formulated the Mission to empower communities and individuals in its strive to achieve their legal rights. It is a five year project in which the three wings of governance, namely, the Legislature, the Judiciary and the Executive, have joined hands to reach out to the most marginalized and vulnerable sections of our society and tell them what are their rights, what are the obligations of the State and other citizens towards them; what are the forums and means available for enforcing such rights and obligations and how poverty cannot come in the way of having free Access to Justice.

4. Food for Work and Sampurna Grameena Rozgar Yojana

5. National Old Age Pension Scheme; Annapurna Scheme; Anthyodaya Anna Yojana; BPL Cards; Midday Meal Scheme; ICDS; National Maternity Benefit Scheme; National Family Benefit Scheme; Apadbandhu Scheme.

The primary objective of the Mission is to spread awareness and information. The Mission proposes to launch door-to-door campaign reaching out to the remotest villages to educate the people and enlighten them into awareness.

The Legal Services Authorities should function with a vision, a mission and a passion for securing justice to all. They have to organize legal aid camps, especially in rural areas, slums or labour colonies with the dual purpose of educating the weaker sections of the society as to their rights as well as encouraging the settlement of disputes through Lok Adalats.

Even after 60 years of independency, the suffering of the exploited and the poor has not ended and they are looking for help. The achievement of legal literacy by one or two institutions is not an easy task. It is essential that all the three organs of the State – the Legislature, the Judiciary and the Executive – must work together. They have an obligation to ensure that our people do become aware of what is available to them and what is their right in terms of facilities that are now a part and parcel of our

development programmes. They have to see that the needy and deserved people should realize their rights. They have to play their role in propagating and strengthening this movement. They have to see that benefits of all the people's welfare schemes should reach the beneficiaries.

Only providing legal aid to the poor and weaker sections to settle their disputes is not the solution. The solution lies if we can grant these people a window of social justice by way of monitoring and ensuring that the benefits are delivered to them; if benefits are not delivered, to identify causes thereof and persons who may be responsible for such lapse and, thereafter, take immediate appropriate steps so that such a lapse is not repeated. We need to set examples of accountability. No legal aid or awareness would reach empty stomach⁶.

If the legal literacy campaigns truly translate into a ground level action, the claims of democracy, pro-poor growth and equitable expansion of social opportunities will be met.

There is no happiness like knowing that you have made a difference in someone else's life.

REPUGNANCY BETWEEN STATE ACT VIS-A-VIS CENTRAL ACT – SECTION 354 IPC – A CRITICAL STUDY

By

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Narsipatnam

Both Laws operating the same field and the two possibly stand together, *e.g.*, when both prescribe for the same offence but the punishment differs in degree and kind the Central Act prescribe a punishment of two years State Act prescribes a punishment of 7 years which prevails ?

By virtue of State Amendment to Criminal Procedure Code (Andhra Pradesh Amendment Act) Act No.3 of 1992 with effect from 15-2-1992 the offence covered by Section 354 Indian Penal Code is triable by the Court of Sessions, non-bailable, and is punishable with imprisonment for seven years and fine.

6. Justice Y.K. Sabharwal : Empowering Communities through Legal Literacy and Legal Aid for Social Justice and Equality, Nyaya Deep, Volume VI, Issue 2 : April 2005, pages 16-19 at page 17