

Although the construction workers are covered under various Acts like the Minimum Wages Act, the Contract Labour Act and the Inter-State Migrant Workers Act, these Acts exist in paper only, in practice they are blatantly violated by the employers.

On August 19, 1996, the Indian Parliament enacted *The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996* and *The Building and Other Construction Workers Welfare and Cess Act, 1996*.

Two legislations, construction workers and their representatives saw this as the successful culmination of a long campaign. They

welcomed the enactments, although they have reservations about some of the provisions. They had managed to lobby for certain amendments before the Acts were finally passed, including a provision to ensure that the Cess collected went to the State Governments rather than the Central Government, so that State level Boards could become financially viable. They were also able to ensure that the Acts were extended to include smaller construction projects and worksites that employed fewer workers.

The author submits that despite the legislations for the welfare of the construction labour, the legal force is not really forcing the life of the labour ahead but till today not able to push them to reach heights.

NEED OF PUBLIC OPINION AND PUBLIC SUPPORT FOR THE EFFECTIVE ENFORCEMENT OF SOCIAL ENGINEERING LAWS

By

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"Law is nothing unless close behind it stands a warm living public opinion"—Wandley Phillips

Discords are bound to arise in society and ingenious human minds have always devised ways and means for resolution of conflicts. Nature has endowed people with rationality and they have constantly attempted to discover methods of establishing a cohesive society. Dispute resolution is one of the major functions of a stable society. Through the medium of the State, norms and institutions are created to secure social order and to attain the ends of justice or the least to establish dispute resolution processes. States function through different organs and the Judiciary is one that is directly responsible for the administration of justice.

It is said that the law without the public opinion is nothing but a bundle of papers.

The gap between the men and women in the society cannot be bridged by just enacting laws without any public support and opinion as social engineering laws are different from penal laws which are just related to injuries and punishment and are deterrent in nature but social engineering laws enacted to uplift the norms of the society and are progressive in nature and therefore it should be backed by the will of the people for whom it is enacted. It is also being clear that centuries old practice cannot be eliminated in one or two days it takes much time. And when laws are enacted to bring radical change in society and are not backed by the will of the people or laws are ahead of public opinion then it has to face great resistance and opposition from

the conservative thinking of the society and they are like dead law, which have no effect on society. The people should be created awareness about the law and its objectives and how it works out the resolution of their problems. They should be taught to understand that it is for them and not for the Governments or for any one else.

In India the most of the laws were not effective as they were ahead of public opinion and willingness of the people to change the society and give less friction or litigation less society. In the society, strong public opinion should be created through education, seminars and by taking the help of various other instruments of the society such as media *etc.*, so that the people of the society should get educated about and change their centuries old thinking and willingly implement the laws enacted for the emancipation for the society.

To improve the status of the men and women in the society the need of the hour is that laws should be enacted but they should be backed by strong public willingness and public opinion because so long as conservative social thinking remain deep rooted in the society, laws will not be able to achieve their ends. It must be asserted that social reforms is in social thinking, behaviour and law would be effective only if they are backed by major section of the society.

For example, traditional concept of "access to justice" as understood by common man is access to courts of law. For a common man a Court is the place where justice is meted out to him/her. But the Courts have become inaccessible due to various barriers such as poverty, social and political backwardness, illiteracy, ignorance, procedural formalities and the like.

Further a large part of the population in India is illiterate and live in abject poverty. Therefore, they are totally ignorant about the

Court procedures, are terrified and confused when faced with the judicial machinery. Thus, most of the citizens of India are not in a position to enforce their rights, constitutional or legal, which in effect generates inequality.

For example, there are various legislations that have been passed in India with a view to curb the imbalance in gender hierarchy and aid in women's empowerment. The Constitution of India guarantees various rights for women in this regard. This can be evidenced by Part III of the Constitution which deals with Fundamental Rights and Part IV which deals with Directives Principles of State Policy. Article 14 states that there shall be equal protection of the law and equality before the law which means that the Courts or any Law enforcement agency should not discriminate between a man and a woman. The right to equality is the foundation on which other laws are formulated and can be implemented.

Apart from the provisions in the Constitution, there are certain other legislations that were passed specific to the certain issues. The Dowry Prohibition Act was passed in 1961 which dealt with the practice of receiving and giving dowry. Dowry has been one of the age old customs in India and it is one of the major problems faced by the society in rural and urban areas alike, dowry deaths are also quite common. Section 304-B of Indian Penal Code deals with the offence of dowry death, punishment for which is imprisonment for a term of not less than seven years or life imprisonment. Despite the legislation, in practice dowry as a custom continues to thrive. The problem of domestic violence has been a long standing issue for women. Section 498 A deals with the crime of cruelty by the husband or the relatives of the husband. The punishment for which is imprisonment up to three years and fine. This section defines cruelty which includes both mental and physical cruelty. This section was included

by an amendment in 1983, by the same amendment, Section 113A has been added to the Indian Evidence Act to raise a presumption regarding abetment of suicide by a married woman. In 2005, The Protection of Women from Domestic Violence Act was passed. The term domestic violence was widened enough to encompass all sorts of physical, sexual, mental, verbal and economic abuse, and it also gives power to anyone else other than the aggrieved party to lodge the complaint. The issue of sexual objectification and harassment of women, trafficking in women have been dealt with by specific Acts such as the Indecent Representation of Women (Prohibition) Act, 1986, Immoral Traffic (Prevention) Act, 1986 and Section 294 of the IPC which relates to obscenity. For the issue of Sati, the Commission of Sati (prevention) Act was passed in 1987, even though Sati was abolished in 1829. The Pre-natal Diagnostic Techniques (Regulation and Prevention) Act was passed in 1994 to curb the rise in female foeticide.

Needless to say that despite of this enactment, female foeticide is rampant. To secure gender justice for working women, the related enactments are; Maternity Benefit Act, 1961, Equal Remuneration Act, 1976, Factories Act, 1948. For enhancing social justice for women, enactments such as the Hindu Marriage Act, 1955, which made the marriageable of women 18, now its been amended to 21; The Hindu Succession Act, 1956 ensures women's right to inherit parental property; The Hindu Widow Remarriage Act, 1956 legalised widow remarriage. All the provisions that have been included in the Constitution and other enactments are reflective of the aim of gender justice but the implementation of all these provisions has been challenging. Thus despite the measures formulated for curbing the gender imbalance, in practice though, women still continue to face the same complexities. As per the latest census the sex

ratio in India is 927 females to every 1000 males and this has been declining for the last four decades. This is a significant indication of appalling condition of the women in the country. The sex crimes in the country have reasonably increased over the years. Patriarchy, lack of awareness, continuous subjugation, certain deep rooted traditions and custom, male chauvinism, lack of effective enforcement, have altogether resulted in the suppressed condition of women today.

Complete gender justice and equal status to all is complex to achieve typically in a country like India. The diversity of cultures, sub-cultures, is vast and there is a lot of rigidity in traditions and beliefs. Lack of education, lack of development, poverty, improper enforcement of the laws, lack of awareness among women, deep rooted patriarchy, economic dependence of women, all lead to the subversive condition of women in our society. Gender hierarchies in Europe and USA are relatively more balanced than in India. Quite simply, most of their sex equality laws are mostly centred on employment and workplace. Not only that, their sex equality laws also explicitly include trans-genders and the rights have been extended to gay and lesbian communities which is unprecedented in India. Gender development in any sphere in any country is a key component of the development and overall welfare of any State. Various NGO's and Governmental agencies, UN agencies, activists have been promoting gender rights and vocal in their protest against discrimination. . Even though, there has been progress in securing gender justice, there is still a lot to be done.

It is one of the most important duties of a welfare State to provide judicial and non-judicial dispute-resolution mechanisms to which all citizens have equal access for resolution of their legal disputes and enforcement of their fundamental and legal rights. Poverty, ignorance or social inequalities

should not become barriers to it. The *Maneka Gandhi* principle, as enunciated by the Indian Supreme Court, that fundamental rights do not constitute separate islands unto themselves but constitute a continent ushered in what *Krishna Iyer, J.*, terms the jurisprudence of access to justice. He said:

“We should expand the jurisprudence of Access to Justice as an integral part of Social Justice and examine the constitutionalism of Court-fee levy as a facet of human rights highlighted in our Nation’s Constitution. If the State itself should travesty this basic principle, in the teeth of Articles 14 and 39A, where an indigent widow is involved, a second look at its

policy is overdue. The Court must give the benefit of doubt against levy of a price to enter the temple of justice until one day the whole issue of the validity of profit-making through sale of civil justice, disguised as Court-fee is fully reviewed by this Court”.

The author feel that the working awareness of the law makes possible the impossible to happen *i.e.*, the purpose and objective will be served only with the public opinion and by creating public awareness about the law and its objectives. The recent example of withdrawal of the Marriage Laws Amendment Bill as it was against the public opinion and will.

A LAYMAN IDEA OF MONEY LAUNDERING – IS IT WASHING MONEY BLACK TO WHITE ?

By

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If a survey is conducted in our country asking the people whether literates or illiterates, what is Money Laundering ?, the immediate question is from them is, it washing money black to while ? May be his/her ignorance is the answer for the question appreciable for his/her sense of humour and ignorance.

The general guesses from most people would be that it must be something related to drying, washing or may be dry cleaning of the currency notes. This is rather the human tendency about the world’s very big crime. To some extent correct but layman don’t know much of this world’s third largest industry. As per IMF reports the turnover of his industry could be somewhere around \$1.5 trillion. However common man does not pay attention because primarily it seems

to be a victimless crime. It has none of the issues associated with a vanishing of the money from economy or performance of the Government or organizations involved in the same and yet, money laundering can only take place after a predicate crime (such as a drug trafficking or the stock market frauds) has taken place. If the person on the street is the banker he might throw the three letters “KYC” to express his knowledge.

Money laundering is the process by which large amount of illegally obtained money (from drug trafficking, terrorist activity or other serious crimes) is given the appearance of having originated from a legitimate source.

But in simple terms it is the conversion of black money into white money. This