

LEGAL LITERACY AND AWARENESS IN INDIA**-TAHIRA KHATOON¹****ABSTRACT**

We the citizens of India, take pride in being one of the largest democracies around the globe among various other nations, and having an enormous written constitution containing a number the articles and provisions, ranging from fundamental rights to fundamental duties to election related laws and many more areas. We are also signatories to various international treaties and conventions, such as *Universal Declaration of Human Rights, Convention on rights of children, Convention on Elimination of all forms of Discrimination against Women*, etc. Although, we are a nation of diversity on terms of religion, race, caste, language, culture, the Laws of the nation remains equal for all of us.

Since we achieved independence, there have been enacted a lot many laws to deal with particular issues in specific, such as, *The Juvenile Justice Act, 2015, Right to Information Act, 2005, The Dowry Prohibition Act, 1961, The Protection of Women from Domestic Violence Act, 2005, The Maternity Benefit Act, 1961, The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal), 2013, etc. and also many schemes for the benefit of the masses, such as Atal Pension Yojana, 2015, Mahatma Gandhi National Rural Employment Guarantee Act, National Literacy Mission Programme, National Pension Scheme*, etc. But, till date, all these Acts, Provisions, and Schemes have not been able to achieve the sought aim with which they were enacted.

One of the main and the most important reason of this, can aptly be said to be, lack of Legal Literacy and Awareness. A huge number of citizens of this country are still unaware of their rights. Apart from being illiterate, this group of population suffers even more in the absence of proper knowledge about their rights, the schemes made by the government for their benefit, various complaint and redressal mechanisms, which also leads to their loss of confidence in the nation and the Government.

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This paper aims to analyze certain areas, showing how the lack of legal literacy and awareness is also a main factor of hindrance in the development of the nation and how the same defeats the basic purpose of the Indian Constitution and various Acts enacted by the Legislature. Also, it additionally attempts to look into the various possible solutions to this major issue, particularly focusing on the role of The Legal Aid Clinics established in the Law Institutions, Law Students, Para Legal Volunteers, NGOs, etc. It further attempts to analyze the need of certain Schemes and Programs to deal with the same.

1. INTRODUCTION

India, being home to people of different religions, castes, languages, cultures, etc. is very diverse. But the entire country has the same Constitution of India, applicable to all the diversities. **Article 14** of the Indian Constitution provides that everyone is equal before the law and is entitled to equal protection of the law. It gives the central and the state legislatures to legislate and make laws, policies and schemes for the better according to the subjects classified and contained in the Central, State and Concurrent List. The Parliament and The State Legislatures have so far enacted numerous laws and schemes for the benefit of the citizens.

But the main question here remains, as to how many citizens of the nation are really aware about these laws and schemes. It would not be wrong to say that a huge percentage of the Indian population is still unaware about even their basic human rights and fundamental rights. A huge percentage of the population is still unaware about various authorities, complaint and redressal mechanisms, and still fear the institution of Police and other Government institutions, rather than co-operating and getting benefit from it. And this scenario doesn't seem to change anytime soon without any concrete efforts to deal with it.

Legal Literacy doesn't really mean that the common masses should be aware about the exact provisions and the case laws as a lawyer or a law student, rather it means that they should possess a *minimum basic understanding of the legal system*, such as, the human rights, fundamental rights, fundamental duties, voting rights and the awareness regarding publication of the financial, educational and criminal records of the candidate during the election and also the electoral offences and the model code of conduct, the laws made specifically for certain sections

or groups of the nation should be known by that section, the common shouldn't be afraid to reach out to the Police and the Courts of law for protection and enforcement of their rights and they shouldn't be baffled and embarrassed by this entire legal regime functioning in our country.

The aim and objectives of the Indian Constitution and the various Legislations will not be achieved and fulfilled till everyone is aware of their basic fundamental rights, every woman is aware of all the laws made for her protection, child labour and trafficking is no more a normal scenario in the society, everyone is able to analyse and assess every piece of information and news based on their logical and legal reasoning, and the common man does not fear the Government Institutions and the Court and is able to repose his/her trust in it.

This is a matter of shame and concern that the citizens with a various number of rights, protections, and benefit schemes are still sleeping over their rights. This should be the responsibility of the Government primarily, and also the Law Institutions and various NGOs to eradicate such illiteracy and unawareness from the nation. The condition of the rural areas is still far worse than the urban areas, in the concerned matter. However, the condition of urban areas is also not satisfactory in terms of the same.

The citizens should be made aware that they have certain basic rights by virtue of being humans and citizens of this nation, which are not privileges granted to them by the ruling government, and they are entitled to it no matter what, except in case of reasonable restrictions as per Article 19(6) of the Indian Constitution.

2.1 FUNDAMENTAL RIGHTS AND DUTIES

Part III of the Indian Constitution (Article 12 - Article 35) contains Fundamental Rights, which are the most essential basic human rights for the survival, growth and development of any citizen. These rights are enforceable in the court of law in case they are violated. These rights consist of right to equality, right to freedom, right against exploitation, right to freedom of religion, cultural and educational rights and right to constitutional remedies. These rights cannot be denied, except under circumstances of national emergency and reasonable restrictions.

Also, many of the Directive Principles of the State Policies have been elevated to the status of Fundamental Rights over time under the ambit of Article 21 of the Indian Constitution to meet

the needs of the society and ends of justice, such as, right to equal pay for equal work, right to free legal aid, right to health care, right to speedy trial, right to a healthy environment, etc.

However, in practicality and reality, a considerable number of the Indian Population is still unaware even of the existence of the Indian Constitution, and a huge number of people are unaware of the existence of their basic human rights.² They do not ask for their rights and simply accept the ill-comings simply blaming it on their fate and mostly poverty.

A new study of the regions Delhi, Mumbai, Rajasthan and Uttar Pradesh by Payal Hathi of the Research Institute for Compassionate Economics, published in *The Economic and Political Weekly* in its Vol. 53, Issue No. 42, 20 October, 2018³ based on mobile phone survey reveals that a significant percentage of the Dalit and Muslim community still face discrimination.⁴

A pioneering report released by IDSN Member, the National Dalit Movement for Justice (NDMJ-NCDHR), in collaboration with the National Centre for Dalit Human Rights, titled, *Criminal Justice in the Shadow of Caste* looks at administration of criminal justice in India through a caste lens, revealing discrimination at all levels, including within prisons.⁵ Similarly, the citizens are equally unaware about their fundamental duties contained in Part IVA of the Indian Constitution to promote the feeling of patriotism and unity, and the Karnataka High Court directed the central and state governments to undertake programmes to educate and aware the citizens regarding it, as the absence of it results in exploitation, deception and deprivation of rights and benefits from which the poorer sections suffer, etc.⁶

² *Most people are still not aware of their basic rights*, THE TIMES OF INDIA (Jun 16, 2011, 11:28 IST), <https://timesofindia.indiatimes.com/city/guwahati/Most-people-are-still-not-aware-of-their-basic-rights/articleshow/8868684.cms>

³ Payal Hathi, *Experiences and Perceptions of Discrimination Among Dalits and Muslims*, Economic & Political Weekly, (20 October, 2018), <https://www.epw.in/search/site/payal%20hathi>

⁴ Vishnu Padmanabhan, *The Discrimination Dalits and Muslims face in India*, LiveMint, (24 Oct 2018, 06:45 AM IST), <https://www.livemint.com/Politics/69Nrdm8oMIvspVNHgdBPkK/The-discrimination-Dalits-and-Muslims-face-in-India.html>

⁵ *Report finds entrenched caste discrimination in India's criminal justice system*, International Dalit Solidarity Network, (January 18, 2019), <https://idsn.org/report-finds-entrenched-caste-discrimination-in-indias-criminal-justice-system/>

⁶ Ashok KM, *Make Citizens Aware Of Their Fundamental Duties, Karnataka HC Tells Centre, State*, Live Law.in, (5 Nov 2016 10:24 AM), <https://www.livelaw.in/make-citizens-aware-fundamental-duties-karnataka-hc-tells-centre-state/>

2.2 WOMEN RELATED LAWS

Along with the constitutional provisions regarding equality (Article 14, 15, 16, 21) and reservation of seats for women provided in gram panchayat (Article 243D) and municipalities (Article 243T), there are a number of legislations particularly to deal with and prevent the violence and sexual, physical and mental harassment of women. But, mostly the women who are to be protected under these legislations are not even aware about the existence of these Acts and still fear to raise a voice or complaint against what they suffer. A few of such legislations have been discussed under:

- **Section 498A, IPC and Protection of Women from Domestic Violence Act, 2005.**

Section 498A provides for punishment in case of husband or a relative of husband subjecting the woman to cruelty, and the Act, 2005 aims to protect any woman, married or unmarried, in a domestic relationship, from domestic violence, sexual, physical, emotional and verbal or economic abuse.

But according to a report of The National Health Survey-4, released by the Union Health Ministry, reveals that every 3rd woman, since 15 years of age has experienced domestic violence of various forms; at least 31% of the married women have experienced physical, sexual, emotional or economic abuse by their spouses; in case of unmarried women, the domestic violence results from most common perpetrators- mothers, step-mothers, fathers, step-fathers, brothers, sisters, teachers, etc.⁷

- **Section 304B, IPC and The Dowry Prohibition Act, 1961.**

Section 304B provides for punishment in case of an unnatural death of a married woman within 7 years of marriage, in connection with demand of dowry, and the Act, 1961 aims to abolish dowry (property or valuable security given or taken in connection with marriage) and lays down stringent provisions to deal with any such case.

But National Crime Records Bureau (NCRB) recorded 4668 dowry deaths in the year 1995. The numbers rose to 6787 in the year 2005 and further to 7634 in 2015. Thus,

⁷ Sheikh Saaliq, *Every Third Woman in India suffers Sexual, Physical violence at Home*, NEWS18, (February 8, 2018, 9:41 AM IST), <https://www.news18.com/news/india/the-elephant-in-the-room-every-third-woman-in-india-faces-domestic-violence-1654193.html>

going by the latest data, India loses 21 lives to dowry every day. Studies reveal that out of total number of cases registered, 93 per cent of the accused were charge sheeted but only one third resulted in conviction.⁸

- **Section 354A, 509, IPC and The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.**

Section 354A deals with sexual harassment and punishment for it, Section 509 deals with punishment for any act, word or gesture intended to insult the modesty of a woman. The Act, 2013 deals with prevention of sexual harassment of women at workplace and setting up of Internal Complaint Committees and Local Complaint Committees to investigate the complaints of sexual harassment.

But again, there is unawareness amongst most of the working women about the provisions and the act, also they don't complaint of any such issue out of fear of losing their jobs, which further worsens their condition. According to data published by the Ministry of Women and Child Development, the number of cases of sexual harassment in the workplace registered in India jumped 54% from 371 cases in 2014 to 570 in 2017. According to the ministry, 533 cases have already been reported in the first seven months of 2018 – nearly as many as for all of last year.⁹

2.3 CHILDREN RELATED LAWS

Along with the constitutional safeguards, such as, equality before laws and equal protection of laws (Article 14), the state can make special provisions for children [Article 15(3)], free and compulsory education for children 6-14years of age (Article 21A), Prohibition of traffick of human beings and forced labour (Article 23), Prohibition of employment of children below age of 14years, etc., there have been enacted various legislations for the protection of children. A few of which have been discussed under:

⁸ Vageshwari Deswal, *Dowry deaths: An ominous ignominy for India*, The Times of India Blogs, (April 3, 2019, 10:13 PM IST), <https://timesofindia.indiatimes.com/blogs/legally-speaking/dowry-deaths-an-ominuous-ignominy-for-india/>

⁹ Kanishk Karan, *Five charts show sexual harassment in workplaces is being recognised – but much more must be done*, Scroll.in, (Oct 17, 2018 · 10:30 am), <https://scroll.in/article/898327/five-charts-show-sexual-harassment-in-workplaces-is-being-recognised-but-much-more-must-be-done>

- **The Prohibition of Child Marriage Act, 2006**

This act aims at prohibition of child marriage, making it a criminal offence and provides for the voidability of child marriage at the option of either of contracting parties, provision of maintenance, residence and Child Marriage Prohibition Officers. However, the child marriages are still occurring and the people indulging into it are either un-aware of the laws or the ill effects of such marriages.

According to Factsheet on Child Marriages, 2019 released by UNICEF, there is a 40% prevalence of child marriages in Bihar, West Bengal and Rajasthan.¹⁰

- **Child Labour (Prohibition & Regulation) Act, 1986**

This act aims at prohibiting the employment of a child below the age of 14 years in hazardous establishments, limits the working hours, prohibits overtime and regulates the conditions of work. However, as many as 33 million children are employed as child labourers in India, also in hazardous industries and mines.¹¹ And we, the society have normalized child labour like any other legal and right thing. We don't object to it.

- **The Juvenile Justice Act, 2015**

Despite various provisions and authorities, including the Juvenile Justice Board or The Children Welfare Committee, or the National and State Commissions for Protection of Child Rights, a considerable number of children in conflict with law are still languishing in shelter homes or prisons due to unawareness about the laws made for them; and many of the children in need of care and protection are being sexually exploited and physically abused in the shelter homes, particularly, girls, such as The Deoria Shelter Home Rape and Trafficking Case, 2018 and The Muzzafarpur Shelter Home Rape Case, 2018 exposed by the TISS Report.

These children are helpless and unaware of the laws and provisions meant for their protection, they do not know whom to approach and seek help from.

Many of such children are being trafficked too, for various reasons, mainly sexual exploitation, child labour, beggar and pornography, as they are easy targets.

¹⁰ Indo-Asian News Service, *Child marriage widespread in Bihar, Rajasthan and Bengal: Unicef report*, India Today, (March 18, 2019 08:59 IST), <https://www.indiatoday.in/india/story/child-marriages-widespread-in-bihar-rajasthan-and-bengal-unicef-report-1454035-2019-02-12>

¹¹ *World Day Against Child Labour 2017: Key Statistics*, Money Control, (Jun 12, 2017 04:34 PM IST), <https://www.moneycontrol.com/news/india/world-day-against-child-labour-2017-key-statistics-2302279.html>

2.5 SCHEMES FOR THE BENEFIT OF SPECIFIC CLASS OF PEOPLE

The present and the governments in the past have launched various schemes over time to benefit and meet the needs of certain class of people, mainly the poor and the marginalized, such as, The Mahatma Gandhi National Rural Employment Guarantee Act, The Pradhan Mantri Jeevan Jyoti Bima Yojana, The Pradhan Fasal Bima Yojana, The Pradhan Mantri Ujjawala Yojna, Make in India, and a lot more. However, not all the population of India reads newspapers as to stay informed about the schemes. Those who are to be targeted by these schemes are not even aware about the existence of these schemes and are still battling for their existence without any aid.

Unawareness among the people, mainly, in the rural areas, leads to the failure of the schemes; also who get to know about the schemes, do not possess information as to how to avail the benefit of these schemes, which results in a little lived success of the schemes.¹² There has to be a method and proper channel to make people aware about the schemes meant for them and the procedure to avail the benefits of the scheme.

2.6 PUBLIC HEALTH, LEGAL AND MEDICAL AID

Most of the citizens are still unaware about their Right to Health and Healthcare being a fundamental and basic right under Article 21 of the Indian Constitution (*State of Punjab v. M.S. Chawla*¹³) or even about the existence of any such right. Many people still hold back from going to the Doctors and Hospitals for lack of money; or that smoking in public is prohibited and the passive smoking is injurious to health too, (*Murli S. Deora v. Union of India*¹⁴) or that we all have a right to a healthy and clean environment free from pollution (*M.C. Mehta v. Union of India*¹⁵), which is the responsibility of the government, from which it cannot step back (*Municipal Council, Ratlam vs Shri Vardhichand & Ors*¹⁶) or that life is of paramount

¹² Vivek Anand, *Two years of Ujjwala Yojana: Lack of awareness regarding benefits of LPG hinders scheme's objective at rural level*, FirstPost, (May 25, 2018 11:56:38 IST), <https://www.firstpost.com/india/two-years-of-ujjwala-yojana-lack-of-awareness-regarding-benefits-of-lpg-hinders-schemes-objective-at-rural-level-4482377.html>

¹³ AIR (1997) SC 1225

¹⁴ AIR (2002) SC 40

¹⁵ AIR (2006) 3 SCC 399

¹⁶ 1980 AIR 1622

importance and that right to medical aid is a legal aid and no action will be taken against the person who helps an accident victim to reach the hospital (*Parmananda Katara v. Union of India*¹⁷) and that the hospitals cannot refuse emergency medical care (*Paschim Banga Khet Mazdoor Samity v. State of West Bengal*¹⁸)

2.7 AUTHORITIES, COMPLAINTS AND REDRESSAL MECHANISMS AND RIGHT TO INFORMATION

Most of the people are still unaware as to the proper authorities concerned to file a complaint with and the process of filing a complaint about anything, or the mechanism of grievance redressal. The common masses in the urban and the rural areas have to be made aware about these, so that their problems and grievances can be solved.

The Right to Information Act, 2005 is a great achievement for the citizens as it promotes transparency by letting the citizens ask for relevant information about the working of the government and policies. However, the issue still remains the same that there isn't awareness about this act either.

2.8 ELECTIONS, ELECTION MANIFESTOS, PUBLICATION OF RECORDS OF THE CANDIDATE AND MODEL CODE OF CONDUCT

We, the citizens of the Indian Democracy, possess the right to vote from the age of 18 years, along with it, we also possess the right to contest the elections, subject to the disqualifications and qualifications for the same as prescribed in the constitution. However, most people aren't still informed about these valuable rights possessed by them. The *Election Manifestos* published by the candidates and the parties are still not looked in to by the people while deciding whom to vote for, as a result of which, they are not able to make informed choices and are still influenced by the caste, religion and the paid news broadcasted over the news channels. Also, most of the people are still not aware about the requirement of disclosure and publication of the liabilities, financial assets, educational qualifications, previous convictions and criminal charges of the

¹⁷ AIR (1989) 2039, (1989) SCR (3) 997

¹⁸ AIR 1996 SCC (4) 37

candidate, again resulting in to making un-informed choices to vote for. Similarly, the Model Code of Conduct is less known about and the people are still influenced by the candidates or the political parties, and also the concept of Electoral Offences and Grounds for Disqualification for the candidates, which should at least be known to the common masses, to help them better judge, decide and exercise their right to vote.

2.9 CRIMINAL JUSTICE SYSTEM

Most of the citizens of our country are still not aware as to how the criminal justice system of our country functions. Many people still fear the Police, also there have been cases of the Police misusing their powers and exploiting the complainants and victims and harassing them. The complaints of non- registration of FIR are not a new issue. This leads people in not going to the Police to get their complaint registered. They, can however, resort to file a complaint with the Magistrate or any senior police officer regarding the same, but many of the citizens are not aware about it. People need to be informed about the concept of Zero FIR.

The police cannot use handcuffs, unless it is necessary (*Prem Shankar v. Delhi Administration*¹⁹) and it cannot arrest a women after sunset and before sunrise, that too without any lady constable or police officer.

The people who are too poor to afford to pay for the expenses of approaching the court, have a Right to Free Legal Aid (*M.H. Hoskot v. State of Maharashtra*²⁰) and the people need to be made aware about the proceeding of the court and how the court really functions, they should not back by the reason of poverty or cumbersome or time –consuming processes of the court which leads to loss of trust in the institution of the court and the criminal justice system as a whole, they should be informed that the under-trials have the Right to Speedy Trial (*Hussainara Khatoon v. Home Secretary, State of Bihar*²¹).

They should also be made aware about the Alternate Dispute Resolution mechanism in the case of Civil Disputes, which is comparatively less time- consuming and costly than the civil proceedings.

¹⁹ AIR 1996 SCC (4) 37

²⁰ AIR 1978 SC 1548

²¹ AIR 1979 SC 1360

2.10 SUGGESTIONS AS TO IMPROVE THE PRESENT SCENARIO

As we have analyzed so far that we do not have the lack of laws, acts or provisions, but the implementation of these and the lack of the awareness among the citizens of the nation. The object of these legislations and provisions will not be achieved till there is unawareness prevailing among the people of our country, particularly, the rural areas.

The legislation should reach to the knowledge of the class of people for whom it is meant and the procedure as to how they can benefit from the legislation. People should be made aware at least about their basic fundamental rights.

There is an immediate need of making people aware about their rights and the Central and the State Governments should take up legal literacy programs with maximum reach to the people, with the aim of eradicating legal illiteracy like the illiteracy.

The Law Schools should compulsorily set up Legal Aid Clinics as provided by The Bar Council of India in Point 11, Schedule III of The Rules of Legal Education, 2008 and they should be actually working and helping people in need of legal advice, rather than just setting it for the sake of requirement. The Bar Council Of India should regularly make visits to the Law Schools and inspect the working of these legal aid clinics.

The Law Students should be given group activities on a regular basis to set up legal awareness camps in the nearby areas and localities, so as to educate the masses and create legal awareness among them, they should also inform the people about the Legal Aid Clinics available in the Law Schools where they can seek legal aid and advice.

The Law students should be encouraged to join as Para Legal Volunteers to create legal awareness amongst the common masses about their rights and duties, and give them legal advice, in case they need it.

The Advocates should also actively participate in such programs of creating legal awareness.

The Theatre Societies of universities or theatre schools should perform street plays, theatre plays in the localities on various social and legal issues and try to educate and aware the audience through their plays.

The most basic and common laws should be broadcasted on the national television channel and radio in the form of awareness advertisements.

The students enrolled in schools should also be taught about their rights and duties from a young age, so as to inculcate it in their memories.

The NGOs should be encouraged to take up this issue and work for creating legal awareness in the society.

3. CONCLUSION

It can hence be concluded from the above discussed details that we, as a nation won't be able to develop completely without our citizens becoming aware of the rights that they possess and the duties that they owe towards the fellow citizens and the country. Most of the population is still sleeping over their right due to lack of legal awareness. We, as citizens, should be aware of and possess at least the basic legal knowledge.

This paper does not at all intend to say that we should impart legal education to the common masses like a law student, it rather aims to insist on the need to make the citizens aware of the existence of basic human rights and making them vigilant in the matter of violation of their rights and also in the matter of policies which are made for their benefit.

Such legal awakening of the masses will help in the reduction of the cases of exploitation of the common masses due to lack of proper knowledge about their rights and the redressal mechanism in case of violation of their rights. They should not be afraid to ask and fight for what they possess. These rights granted to them are not in any way a privilege provided to them by the government.

The legal awakening of the country will result into control and decrease of the spread of the fake news, as people will apply their basic logical reasoning based on their legal knowledge, resulting into decrease in the number of incidents of mob-violence. We, as a country, will become more informed, and will be able to assess as what news to believe and check its authenticity and source before believing it.

The law students can play a major role in achieving this goal by creating awareness in the areas near them; also the Central and the State Governments need to take up legal literacy programs to eradicate the legal illiteracy. More NGOs should be set up and encouraged to work for creating legal awareness in the society.