

NON-ENFORCEMENT OF VARIOUS LAWS IN INDIA



Indian Constitution, being the longest written constitution of any sovereign country in the world, covers all the important aspects of day-to-day functions in a free world, especially when there are other laws in place complementing it and legal reforms happening at a rapid rate. There are, however, various limitations to the well-established laws that we need to talk about.

Corruption:

Corruption is one such aspect in the free world that seems impossible to stop. Various officers act faster when they are offered some bribe and the ones who don't offer them anything, they keep trapping such people in various intricacies. After all most of the people are not well accustomed with law, therefore easy to manipulate. It seems as if the government officers or clerks and other employees are not being paid properly by the government for the work, they are engaged in. But when we take a proper look at the salaries being paid to various employees, clerks or officers, we come to realise that it is generally more than enough. Why then are the officers and other employees generally corrupt?

As we generally introspect, the first and foremost reason of corruption is “abuse of power”. Administrative officers misuse the power to take unjust benefits or advantages of individuals

and organisations. One such aspect of abuse of power is the corruption. It has taken its roots to such an extent that nowadays we don't often perceive it as a crime rather we call it "chai-paani" meaning a remuneration as an award to the work done as if to say they are not being paid properly by the government. This grave issue ultimately erodes trust in the system, hampers economical development and weakens the democracy and the purpose of the constitutional laws. In addition to that it results in the exacerbation of other menaces like poverty, inequality, social division and the environmental crisis.

Philosophically, in this age of the world people tend to crave more and more. English proverb sums it up nicely - "the more you have the more you want". Rather than any kind of contentment or satisfaction, the accumulation of wealth or any kind of possessions only ignites the desire for further accumulation of such wealth or property which in the end results in the grave offence of corruption. We don't generally realise it but currently there's another pandemic going on in this part of the world from decades now – "the pandemic of corruption". There're however well-established laws in place and various vigilance committees that have been established by the state but unfortunately, they are of no use or of very little use. The sooner we understand it the better. So, how do we put an end to this menace?

The best way to put an end to this menace would be to the properly implement already framed laws like Lokpal and Lokayukta Act (2013), Central Vigilance Commission (2003), Prevention of Corruption Act (1998), Prevention of Corruption Act (1988), Foreign Contribution Regulation Act (1976) and so on. In addition to that, general masses have the responsibility to use Right to Information Act, 2005 efficiently and wisely while keeping the fundamentals of the constitution in mind. The objective of the act itself is to empower the people of India against administrative corruption, unresponsive attitude and other countless irregularities by giving common citizens access to information.¹ At the philosophical level we can change the attitude of the society towards corruption by educating the citizens especially our youth about its grave consequences and thereby empower them to act against it.

Failure of educational system:

Constitution has recognised right to education as fundamental right between the ages 6 to 14. The government has to, under Article 41², make effective provisions for securing right to

¹ Act No. 22 of 2005

² Constitution of India, 1950

education. And, despite that we witness child labour, children begging on the streets, working for their livelihood in factories. Government education has failed to provide quality of education. Most of the children are enrolled in government schools but because of the lack of effective educational facilities, they are left with no choice but to pursue private coaching for which they have to pay a big chunk of money, and to be fair not all of them have the means to do so. Therefore, they end up giving up their dreams and start believing in the age-old myths that were conveyed to them, such as, “life is not easy for people like us, and that our fate is set for us before we were even born” and things like “son of a manual scavenger has to sweep and clean sewers, ditches, pits and septic tanks” and so on.

Furthermore, our education system hardly pays any attention to arts and culture and thus putting an end to possible career paths for the students. Students of our country are hardly given the attention they deserve and the reason is obvious i.e., teachers hardly care about how well the students are being educated rather they generally focus more on their pay scale and the salaries that they are about to receive at the end of the month. They are more worried about where to invest the money, which car to buy and where to spend holidays than the job they basically need to be more focused about i.e., teaching to the best of their potential. If the case was otherwise, there was hardly a need for the general public to enrol their students in the private schools and colleges. In fact, it is possible that education would not have been taken the shape of business where you have the potential to become millionaires. Yes, you read it right, there’s no doubt in the fact that educational institutes have taken the shape of corporate entities which solely focuses on their profit.

As a matter of fact, the cravenness of earning more and more money gives rise to the strong competition between various educational institutes which in turn makes them do wonders like improving the quality of education and other facilities. The problem emerges, however, when an educational institute pays more attention on its profit than on imparting quality education to the students, they tend to hike fees otherwise the owners can’t make big houses and own expensive cars. There was no problem with that as well if everyone would have been able to pay it, but that’s not the case here. On one hand, there are people who enrol their sons and daughters in the private educational institutions where the quality of education is conducive and on the other hand, there are people who can’t simply do that because of poverty and they are left with no choice but to enrol their sons and daughters in the government schools and

colleges where the quality of education is not generally met with the requirements of the competitive age like today.

Therefore, it becomes the responsibility of the government to address such issues and make such laws which can help improve the quality of education in general especially in government educational institutes so that the students coming out of the government schools and colleges have enough exposure to compete with the students of the private schools and colleges. Another possible solution to the above problem would be to privatise the educational system and structuralize it in such a way that poor and rich students are treated with equity and fairness. Government has the responsibility to make sure that Percy Bysshe Shelley's statement "rich gets richer and poor get poorer" is not proving right even in the 21st century.

Discrimination and Manual Scavenging:

"Manually cleaning, carrying, disposing of, or otherwise handling, human excreta in an insanitary latrine or in an open drain or sewer or in a septic tank or pit"³ generally known as 'manual scavenging' is another big issue in India as it affects human health and may cause Brochities, Tuberculosis, Asthma, Nausea, Typhoid among various other serious diseases. When we take a deeper look at 'manual scavenging', we come to realise that it is mainly Dalits who work as 'manual scavengers' in the caste-based society like India. In 2019, it was estimated that among 6 million households of Dalit sub-castes, between 40% to 60% of the households are engaged in sanitation work.⁴ Article 14 of the Indian Constitution states that "state shall not deny to any person equality before law and equal protection of laws within the territory of India".⁵ Article 15 prohibits the state from discriminating any citizen on the grounds only of religion, race, caste, sex, place of birth or any of them.⁶ Article 17 abolishes untouchability and its practice in any form.⁷ Concurrently, the state has framed various laws that punishes untouchability such as Protection of Civil Rights Act, 1995, Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and so on. But despite these laws already in place, issues like casteism and untouchability are still common in India and the reasons for the same can be traced in the deep-rooted traditions of Casteism.

³ The Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993

⁴ PRIA (2019): Lived Realities of Women Sanitation workers in India: Insights from a participatory Research Conducted in Three Cities of India

⁵ Constitution of India, 1950

⁶ Ibid

⁷ Ibid

Similarly, the issue of ‘manual scavenging’, has been identified by the government and subsequently “The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013” was enacted which came into force in December, 2013 with the aim to prohibit employment as manual scavengers and rehabilitation of manual scavengers and their families through training in alternate employment, financial help and help with purchasing property. However, despite the laws in place against the employment of manual scavengers, the cases of manual scavenging were reported in various states including Maharashtra, Gujarat, Madhya Pradesh, Uttar Pradesh and Rajasthan in 2014.⁸ In 2021, National Human Rights Commission (NHRC) maintained that “tall claims made by states that they have no manual scavengers and zero sanitary latrines are far from truth”.⁹

Reservations:

Indian constitution has recognised reservation for the women, children, minority communities and backward classes of citizens like Social Castes (SCs) and Social Tribes (STs) from its very inception under Article 15 and 16.¹⁰ The main aim and objective of reservation was to uplift the weaker sections of the society be it women, children, or any backward sections of the society so that we can achieve ends of equality and can adequately represent such weaker sections of the society. Since 1950, Indian State has provided reservations to the weaker sections of the society for around 70 years now but such reservations have proved to be one of the most useless of strategies as it failed to address social inequities and create opportunities for all. For over 70 years, it is downright comical that we are unable to uplift any weaker section of the society across India despite the reservation laws being in place.

As of now, there should have hardly been any need of reservation policies at this point of time. We should have already uplifted most of the weaker sections of the society in India. It does not infer that we do not need reservations in the state rather it leads us to the conclusion that laws related to the reservations have not been implemented properly in the state. Despite the fact that people belonging to the lower castes are employed on the basis of their backward category, they are being subjected to cruelty, harassment and discrimination inside the schools, colleges and during their course of employment which makes them feel inferior to others and thus results

⁸ Human Rights Watch (2014): Cleaning Human Waste – “Manual Scavenging”, Caste and Discrimination in India

⁹ <https://www.hindustantimes.com/india-news/nhrc-recommends-special-act-on-manual-scavenging/story-EkbYXNe4vhLw7RzTh01wkl.html>

¹⁰ Constitution of India, 1950

in the unfair society. The point is — it is not enough for the state to enrol people of backward classes in schools and colleges and provide employment to them but rather they have the responsibility to change the mindset of people in general by perhaps organising awareness programs throughout the state and stimulate people of backward classes to come forward once they have been discriminated against and provide them free legal services so that they are not discriminated against and feel as if there is nothing they can do about it.

Mob Lynching:

Currently, the state of affairs in India is such that animal rights are given more importance than that of human rights. Humans are being lynched every now and then, sometimes even in presence of police officials, and very often the reason behind such violent incidents relate to the fact that they allegedly slaughtered a cow. Police forces, who are legally bound to protect people from any kind of unlawful assembly¹¹ and authorized to use force to disperse such assembly¹² act as mute spectators in most of the cases. In 2020, two monks and their driver were ghastly murdered in presence of police forces by a huge mob of around 200 people in Palaghar, Maharashtra who were on the way to Surat from Mumbai to attend the funeral. Police contented that they fired shots in the air to disperse the mob but “is that all they were supposed to do?”, asks Dr. Vageshwari Deswal.¹³ I am afraid not. There are enough laws in place that could have saved the lives of the trio but unfortunately, we lacked enforcement of the well framed laws, it is this non-enforcement of laws which ultimately creates huge instability in the nation. It results in the long-lasting conflict between various communities which in turn makes it impossible for the ends of justice to meet.

Conclusion:

It is not only these laws that are not enforced and implemented properly. There are countless other incidents and situations where laws have only been penned down in the books but when we take a gander at the enforcement of the same at the ground level, we are usually disappointed by the results. Lack of enforcement of various laws leads to the turmoil, chaos and havoc in the state. State has the responsibility to not only frame the requisite laws but to enforce the same as well.

¹¹ Section 144, Indian Penal Code, 1860

¹² Section 129, Criminal Procedure Code, 1973

¹³ “Mob Lynching – A desecration of Rule of Law” by Dr. Vageshwari Deswal

From the above discussion it is quite evident that it not the legislation that we need rather the need of the hour is the implementation and enforcement of the same. I have faith in the constitution, its principles, the judiciary system and so on but my faith in the system is not enough. We need to restore faith in the mind of common masses with regards to the laws, and that can only be done if the laws are properly and strictly adhered to.

The government needs to act in accordance with the “Rule of Law” rather than focus on their vote banks. “Rule of Law” has to be upheld as it is the mightiest sovereign in a civilized society and because without “Rule of Law” it is near to impossible for any civilized society to endure. They need to take special care of the proletariat and keep an eye on the bourgeoisie. Only then India can revolutionise.

Media can play a vital role as well as it is considered “fourth pillar of the democracy”.¹⁴ In 2020, 1527 incidents of circulation of fake reports were recorded, which is a crime under Section 505¹⁵, against 280 cases in 2018 and 486 cases in 2019 which is nearly a three-fold rise in 2020 over 2019.¹⁶ Apart from that, there are countless fake reports circulated by various Journalists which are proven wrong when fact checked by other platforms. Furthermore, Journalists are hardly prosecuted for the spread of such fake reports/news. This sorry state of affairs ultimately results in the unfathomable gruesome acts. True journalism is hardly observed in India and the reason for the same is again – “corruption”.

Politics can be very tricky at times. Politicians at times tend to divide the nation for the purposes of securing vote banks. Therefore, it is the responsibility of the citizens as well to choose the government very cautiously and wisely so that the state is not left at the mercy of ruthless politicians.

¹⁴ Coined by Thomas Carlyle

¹⁵ Indian Penal Code, 1860

¹⁶ National Crime Records Bureau (NCRB)

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