ALTERNATIVE FUTURES
INDIA UNSHACKLED

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Legal Futures for India

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Summary

The essay examines the opportunities and limitations of law in India and gives the examples that illustrate its dynamic nature and the range of factors (social, political, economic, and cultural) that influence it. The essay argues for a legal future that strives for a social democracy, by engaging with the principles of decentralisation, equality and innovation in justice delivery.

The Indian legal system has three major daunting challenges: access to justice, social acceptance of law, and multiple forms of injustice. To combat these challenges, the essay proposes opening up of the legislature and the judiciary to common citizens as a method of actively engaging citizens impacted by legal issues to participate in the process of making law as well as resolving legal disputes. Central to this, is the creation of mediation centres that can play a crucial role in establishing a constant connection between law and society to bring out layers and complex notions of identity.

Introduction

W. H. Auden (1940) in his poem ‘Law, like Love’ writes:

Law is neither wrong nor right,
Law is only crimes
Punished by places and by times,
Law is the clothes men wear
anytime, anywhere,
Law is Good morning and Good night.

Others say, Law is our Fate;
Others say, Law is our State;
Others say, others say
Law is no more,
Law has gone away.

(Auden, 1940, pp. 113)

Law as Auden describes it determines the everyday and is omnipresent in our lives. More so he describes the law as a site of struggle where its source, implementation and interests are contested and like love these struggles bring with them possibilities as well as a constant churn of transformation. India’s legal history stands testament to such struggle where multiple interests are debated whilst embedded in a complex societal fabric. This social fabric is contextualized by issues of caste, class, poverty and gender. There have been several critical junctures in India’s legal travails but a few key moments have been – the making of India’s Constitution in 1950 which serves as the supreme legal framework; the political emergency in 1975 which in some ways paved the beginning of human rights; women’s rights and environmental movements; and the economic reforms of 1991, to name a few. These critical junctures have seen the passing of some progressive legal opinions and legislations and some that are regressive and violate the ethos of the Constitution. Yet this fragmented nature of law is what allows it to act as an enabler as well as a constraint in our path to seek social, economic, political and ecological justice. The law is subject to a myriad of influences from social movements to mere expression of economic intent, it is the negotiation of these influences that the law to an extent facilitates or defines.

Extending from this abstract understanding of the legal realm in India as one where influences, powers and interest are negotiated, I would like to elicit this dynamic nature of law in recent examples where these interests have been negotiated through street protests, parliamentary processes, and the enforcement and implementation of law. It is through these examples that I would like to chronicle the opportunities and limitations that the use of law has as an instrument in achieving sustainability, equity and justice before venturing into the possible legal futures.

On 16 December 2012 ‘Nirbhaya’ a 23 year old physiotherapy intern was brutally gang raped in Delhi. This act of violence triggered country wide protests demanding safety for women and justice for the victim. This demand for justice increased the pressure on the judiciary to react appropriately to the crime. What often goes unnoticed is how this country-wide unrest and street protests created an avenue for direct engagement with the judiciary and legislature. The demand for safety of women was couched with an urgent need for legal reforms that could address these demands. These protests, along with the
pressure from other sources like the international media, resulted in the formation of a judicial committee headed by Justice Verma which suggested reforms to the existing criminal law framework (Narang, 2014). These reforms were then adopted in the form of the Criminal Law (Amendment) Ordinance, 2013, which altered the legal landscape while dealing with crimes against women. The challenge still remains that despite this legal framework the amount of time taken to address rape cases continues to be slow despite the setting up of six fast track courts (Shakil, 2014). The case has however increased the amount of public discussion on violence against women and the number of cases reported has increased since the Nirbhaya incident (Narang, 2014). It is here that the challenge emerges where progressive legal reforms that cross the institutional barriers of the judiciary and the legislative through a judicial committee set the foundation for legal redress for victims of violence. Yet, for the reforms to be implemented, it requires a drastic shift in the functioning of the judiciary whose institutional memory needs to dramatically absorb these reforms. This, in many ways, is a key challenge that the use of legal reforms puts forth which requires a paradigm shift in its functioning. The use of street protests provided for increased public discussion and created an enabling environment for more women to come out and report their cases but the institutional response to these reports remain weak. This was a unique instance where the law responded to the nationwide protests. There was a sense of unison in the legal and public imagination. This however does not occur often.

Let us now take the case of Section 377 of the Indian Penal Code which states:

'Unnatural offences—whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal—shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.'

This section criminalizes sexual activities which are 'against the order of nature'. This is a case where the Lesbian, Gay, Bisexual and Transgender (LGBT) community were criminalized within the existing legal framework. Its constitutionality came to be challenged in the High Court of Delhi by the Naz Foundation and it went on to be decriminalized where adult consensual sexual activities in private were permitted. When this decision came to be challenged in the Supreme Court, Section 377 was upheld. This exposes one of the core challenges that are embedded in the use of law and the courts in particular, for justice. The hierarchical structure, which allows for appeals to higher courts which at times can allow for better redress, can also result in a change from a progressive to a regressive decision. This occurred in the present case. What is more
important to note is that in the case of Nirbhaya there was a semblance of alliances across different segments of society in relation to its demand for justice while in the present case this alliance building is still taking place. The degree of social acceptance towards the LGBT community is quite low and this brings us to the other challenge and opportunity that the law presents. The challenge is whether striking down Section 377 would create more social acceptance towards the community or if an evolved societal imagination that allows for acceptance would result in the same being reflected in law. This inter-relationship is present in most cases concerning marginalized communities and the law becomes the site for contestation.

In the case where the Narmada Bachao Andolan tried to challenge the construction of the Sardar Sarovar Dam on the grounds that it would cause large scale displacement of adivasis and other local communities in the area, the Supreme Court dismissed the petition on the basis that the larger purpose of the dam was to provide water for irrigation and drinking purposes especially to non-riparian states like Rajasthan. This hierarchy of the rights of water of certain communities at the cost of compromising the right of adivasis to their land and waters is another instance where judicial discretion in interpreting a legal dispute reinforces power structures. Such preference of the rights of one community at the cost of the other is a complex balancing act but the scales often weigh heavier to the side of those communities that are more powerful by virtue of aligning with the development agenda of the state and correspond to state interests. The language of rights is thus fraught with the question where legitimate rights holders are denied rights by giving preference to claims emerging from communities more powerful.

The legislature as a site for struggle or the push for drafting new legislations to address injustice have been successful, yet like the other approaches of using the law, they come with their specific set of challenges. The Forest Rights Act is an example where historical injustice committed to forest dwelling communities by denying them their rights in forest areas through colonial forest laws was challenged and their rights were recognized. This is an example where the political struggle found its expression in a new legislation, and it was possible because these efforts were complemented by political will in the then United Progressive Alliance government to pass such a law. The legislature also acts as what John Austin (1980), a noted legal philosopher called a space where law becomes the command of the sovereign, and this can be seen in the proposed amendments to India’s environmental laws and the passing of a new land ordinance that shrinks the democratic space available for communities impacted by it to articulate their interests. In this case the political will is moving towards growth centric legal amendments. The challenge then of achieving the
goals of social, economic and political justice through shaping legislative discourse in India is that it is subject to the changing priorities of the government in power.

These instances illustrate the challenges associated with using the law and the ability of law to address injustice. These challenges can be located more broadly in problems of access to justice, social acceptance of law and law's ability to address the multifaceted nature of injustice.

**Future of Law**

In 2047 I would envision that the law has been able to break down existing power structures that maintain social, economic and political inequality in India. The law achieves this ideal of justice by opening up the legislature and judiciary to greater citizen participation where citizens have internalized the virtues of rights and rule of law. There are three components to this vision of law.

Firstly, ensuring access to justice by changing the current form of the legislature and the judiciary to be more localized and citizen driven.

Second, enabling the making of a society where values of justice, equality and sustainability are virtues that are prioritized and expressed through law.

Third, ensuring access to justice by expanding the existing notion of procedure accepted by law, particularly in relation to evidence. By expanding the notion of procedure what I am aiming at is the loosening of procedural barriers particularly criteria of what amounts to evidence. I propose a radical shift where criteria for evidence under the Indian Evidence Act, 1972 are softened to accommodate communities or citizens who have been marginalized from gaining access to such evidence, particularly when it is being produced to access rights. An example of this is in the Forest Rights Act, 2006 where communities who are unable to provide evidence such as land records for claiming their rights within forest areas can produce a statement by an elder reduced to writing. This softening of criteria will enable access to justice by overcoming the evidentiary barrier. Evidence as understood legally usually involves state-legitimized facts, or scientific information whose authenticity is usually ensured by the recommendation of certain labs by state actors. This monopolization of evidence in the hands of the state, particularly in access to rights, acts as a barrier for communities unable to afford the costs of sourcing such evidence. The Right to Information Act, 2005 acts as a critical link in breaking this monopolization of legal evidence by the state, but this continues to involve a process of engaging with the state in request for information. It is the lack of this complete disengagement with the state which frames the evidentiary barrier to rights. In light of the procedural innovation as put forth in the FRA, I propose
that community generated legal evidence like oral histories should be considered authentic and accepted by law. Testimonies of events already enter the realm of legally accepted form of evidence to validate the happenings of an incident. I propose the expansion of this notion of evidence to apply to rights claims. For instance in the case of a claimed right to cultural heritage for a community, oral histories and songs that allude to such cultural links should be considered as authentic evidence. These three arms will have to feed into each other to allow law to break the existing power structures by creating enough room for them to be challenged by citizens. It would also impact these power centres which may take the form of large corporations or the state.

Opening up the Legislature and Judiciary

Presently the functions of the legislature and judiciary are controlled by the state, with limited scope for citizen participation. Citizen participation is curtailed to electing a representative government and contributing to functioning of local authorities which were a product of decentralization. To enable more citizen engagement I propose the complete restructuring of the current form of the legislature and the judiciary. This restructuring is grounded in the values of access to justice and citizen controlled process of formulation of law and dispute resolution.

The legislature is presently composed of two houses of parliament the Lok Sabha (House of the People) and Rajya Sabha (Council of States) which act as two avenues to balance the interests of the centre and the state. It is my contention that within this structure the process of law making becomes an act of power struggle between elected political parties in the different houses while the citizens impacted by the bill are sometimes invited to provide comments on the proposed legislation.

What if we open up the legislature to a third house at the lowest unit level of governance where bills can be proposed, debated and discussed? The 73rd and 74th amendment to the Indian Constitution devolved executive and administrative powers to rural and urban areas but did not devolve legislative powers. The relevance of laws is specific to the realities in different geographies and this subjectivity is not adequately captured in the Rajya Sabha. This decentralization of legislative powers will prevent the law becoming the command of the sovereign and engender accountability to citizens in the legislative process. This process will allow for the making of more nuanced legislation as the impact of the proposed legislation on different communities will be negotiated. For direct democracy to be realized there is a need for legislative intent to be subject to debate and critical analysis which has the power to reshape and change it.
To illustrate how this would function we can take the example of the proposed land ordinance. The ordinance proposed to do away with the consent clause for the acquisition of land either for public purpose or public-private partnership projects. If this third house of parliament were alive this amendment to the existing land acquisition act would require the approval with two-thirds majority of the different grams (village units) and municipality units (assuming here that this will function as the lowest unit of governance) to this bill. The resistance to the introduction of this clause by Adivasi's, Dalits and farmers can be legitimately expressed in the third house and the upper houses will be legally bound to consider this resistance and alter the bill. This may seem like a herculean task to involve the different grams and municipality units. Yet this will ensure that the consent and considerations of the impacted population are adequately taken into account in the legislative decision making process.

This structure will also give the grams and municipality units' agency in introducing laws applicable to their area making legislative response more specific to the issues experienced in the area, and provide an avenue for customary laws to find its way into the formal legal process. The challenges with this approach are many as it may result in multiplicity of laws and create more conflict, yet it can act as a potential medium to strengthen the relationship between the citizen and the state structures in the legislative process.

The judiciary in India is a multi-layered and complex structure which is suffering from issues of inefficiency and access to justice. The present judicial structure consists of the courts, namely, the district courts, High courts and the Supreme Court as well as specialized courts and tribunals like the administrative tribunals and the Lok Adalats which form a part of the alternative dispute resolution mechanisms available. The present structure has tried to address the question of access to justice by diversion of disputes to specialized legal avenues like the National Green Tribunal, reducing the burden on courts; expanding the notion of locus standi through the public interest litigation system thereby increasing access to courts (Bhagwati & Dias, 2012). Present attempts have been the establishment of Gram Nyayalayas (village courts) in different panchayats. Though the state has attempted through these different methods to increase access to justice, whether these approaches actually increases access is yet to be studied. I speculate that though the present structure attempts to address the question of access to justice it falls short, as it does not place sufficient emphasis on methods of mediation and negotiation. The adversarial method of conflict resolution can cost the parties to the dispute as the goal is to win and the decision is in the hands of a judge, whereas in a mediation proceeding the parties to the dispute work together to resolve the dispute giving them more agency in deciding the outcome.
The setting up of localized mediation centres which can be formally recognized can prove to be an interesting alternative. Though Lok Adalats tried to establish localized access to the judiciary they continued to rely on the discretion of judges which can alienate solutions which the parties to the dispute may arrive at. Mediation centres controlled by the citizens and assisted by the legal aid centre can pave the way for a new model to create an active judicial presence in different areas and reduce the burden on courts.

An ideal for law to be able to break the existing power structures is that it has to be supported by a society where justice, equality and sustainability are paramount. To realize this ideal state it would require a constant connection between law and society which would entail an interaction with social norms, customary laws with the formal legal system. Customary laws provide a historical basis for understanding norms and conflict resolution methods within particular communities and its interaction with the formal legal system has been ridden with conflict. In 2047 customary laws enjoy an interesting equation with the formal legal system where they gain the acceptance of the latter, but in areas of conflict, the customary law will prevail unless it is contrary to the virtues of justice, equity and sustainability as internalized by society. The reason customary law would prevail is to enable cultural and societal norms particular to that community to exist and avoid being eroded by new legal structures that come with statutory law. This hierarchy of customary law to statutory law can be broken in instances where it violates the ideal of justice, equity and sustainability. An example that can be seen in present times, where a Khap panchayat\(^\text{11}\) in Uttar Pradesh ordered women to be raped as punishment for their brother marrying outside his caste (Bhatia, 2015). With the opening up of the judiciary and the legislature this interaction and negotiation would be more possible.

In 2047 every process of law making and implementation will involve the rights holders in its negotiation. The law will be more layered with laws ranging from the national, state to the local level with the Constitution continuing to be the supreme law of the land. In an event of conflict between different laws priority would be given to the local laws, followed by state laws and then central laws, which will make judicial interpretation more locally relevant. However, if any of these layers of law conflict with the Constitution, the constitutional position on the issue would prevail. With mediation being a dominant method of dispute resolution it will allow for more organic settlement of disputes where the settlement being an agreement between the two parties can move beyond the frame of the local, state and national laws. Another change that would occur in 2047 is that when India is a signatory to any international treaties, in order to realize her obligations under these, she would mandatorily incorporate the ethos of the international treaty into.
domestic legislation. This incorporation will be subject to the three tiered legislative process described earlier.

Pathways

As I laid down my vision, I was keen to study other interventions which were already moving towards this ideal to arrive at the suggested pathways. My search for these interventions led me to interview three innovators in the space of law and justice—Deepta Sateesh, Director of the Law + Environment + Design Laboratory, Danish Shiekh, a human rights lawyer at the Alternative Law Forum and Gulika Reddy, who is the founder of Schools of Equality. These three new interventions are moving towards the two aspects of my vision. The first being access to justice and the other being the creation of an enabling environment for a society to prioritize justice, equality and sustainability. It is tough to place these initiatives into either of these aspects but I have chosen to do so, based on the greater emphasis on one of these aspects.

Access to Justice by Designing New Possibilities

Access to justice is traditionally viewed as the lack of the ability of law to respond to injustices due to lack of legal protection or judicial and institutional access. In my vision I propose to address this by opening up the legislature and judiciary for more citizen engagements. The Law + Environment + Design Laboratory adds another dimension to this question of access to justice by stating that the language of the law itself is a barrier in its use and suggests the need to move beyond its text heavy nature to something more accessible which is visual. This democratizes the knowledge of law, enabling a participatory process either in the making of law or its implementation, and of developing legal strategies. Deepta Sateesh suggests that at times it might also be excessive reliance on the legal framework in addressing injustice that creates a perception of the lack of legal redress or lack of access to justice. She articulates that the legal struggles need to be complemented with spiritual, social and cultural resources and creative intervention. This showcases that opening up of the judiciary and legislature needs to be accompanied with creative intervention that makes the language of law accessible and even look beyond the law to resolve or address conflict.

The Law + Environment + Design Laboratory was set up in 2011 as a collaborative effort between environmental lawyers from Natural Justice and Designers from the Srishti School of Art, Design and Technology. It was created with the vision to challenge existing legal, environmental, social, cultural and economic frameworks with interdisciplinarity. The experiments at the lab reveal the potential for design and design methodology to navigate some of the challenges that the use of law entails.
Figure 1: The use of the visual medium in an infograph to navigate the Forest Rights Act, 2006 sourced from the Law+Environment+Design Laboratory website available at http://arishti.ac.in/ledlab/
‘The ground is complex and the law tends to simplify or generalize and the language of the law can distance or alienate people from using it’, says Deepta Sateesh, as she begins to reveal her journey of working with the law in assisting communities in their struggle to assert their rights over resources. The first experiment of bringing these two disciplines together was when designers worked on communicating the Forest Rights Act, 2006 to pastoral communities in Kutch and Sariska who were engaged in a struggle to assert their rights under the Act. The problem with the implementation of such a progressive Act is a matter of communicating the nature of rights available within it and how to access them. The visual medium provides an interesting opportunity to dilute the text heavy nature of law making. The use of the visual medium acts as a way of democratizing the knowledge of law, enabling a richer engagement of communities which this law impacts and citizens in the future. It fundamentally challenges the approaches towards lawyering where legal strategies are constructed by lawyers. Instead, through the visual medium, it opens up the conversation with other stakeholders who are likely to be impacted by such legal action. The first experiment resulted in the creation of a board game on the Forest Rights Act, 2006 and a paralegal toolkit. This experiment further provides a new lens to look at the problem of access to justice as not one of lack of access to redress or other institutional aspects but locates it in the language of the law.

‘Law can only act as one outlet and design provides an opportunity to explore others’, is what Deepta Sateesh says to describe the point where legal intervention cannot address all aspects of impacts that a community may face from a particular injustice.

The next experiment with law and design was to revive the myths and narratives of the Khoi-San community in South Africa to provide an alternative way to address the collective trauma that they had experienced from a historical process of marginalization. The legal struggle could not address this collective trauma and there was a need for a design intervention to complement the legal efforts. This came in the form of a graphic novel that built on the power of narratives that rebuild the myths of the Khoi-San people and the story of their ancestors to provide spiritual and cultural relief in their struggles. This showcases that the experience of injustice cannot always be resolved or addressed by law alone and there is a need to complement legal efforts with the use of narratives or other creative methods that can engage communities.

‘There is a dissatisfaction or dissonance with the way policies are being implemented on the ground; this, to an extent, is because the law generalizes the particularity of places and relationships’, states Deepta Sateesh, as she highlights the possibilities that design holds for law. She states that the distance between the law or legal framework and its context of
implementation is a product of the colonial frame that we continue to sit within. It is her vision to use design as a way of understanding the frame that is particular to India and to then begin to propose different ways to navigating conflict from there.

Society that Prioritises Equality and Justice

The two interventions featured here are moving towards this ideal by expanding the scope of existing legal structures to understand the complexity of identity based discrimination through a comprehensive anti-discrimination law and the other by incorporating human rights education in the school curriculum through Schools of Equality.

Towards a comprehensive anti-discrimination law

‘One example I often refer to is what my colleague Sumathy describes – where in a Kolkata village a Dalit female to male (Trans-man) was in a relationship with an upper caste woman. The upper caste family wanted the relationship to come to an end. In their efforts to do so, they inflicted violence, the Dalit Trans-man was stripped and paraded nude. In such an instance will one look at it as a question of caste atrocity, gender identity or a question of sexual orientation. How can a legal framework that’s insular grapple with something like this’, says Danish, as he begins to lay out the framework for a comprehensive anti-discrimination law. The underlying principles that fuel this effort is the idea of intersectionality and the need for law to embrace the complex notion of identity as well as acknowledging the multiple strands of discrimination that take place with a single individual or instance of injustice.

The landscape of discrimination law in India is variegated, dispersed and lacks insight into the intersecting and unifying nature of discrimination across recognized identity markers. The Indian Constitution provides a guarantee against discrimination on a number of prohibited grounds including race, caste, place of birth and sex, but the manner in which these have been operationalized through legislation and policy measures leaves a lot to be desired. It is here that the efforts of Danish and the Alternative Law Forum lie in enabling the articulation for such a comprehensive framework. Danish recounts that the first time this conversation took place was in 2012 where the LGBT movement was discussing the path ahead and an element that emerged was non-discrimination. This piqued his interest and he began to research on the need for a new discrimination framework. More so now, he emphasizes, given the regime change due to which religious minorities are particularly vulnerable. It is this unique ability of the project to understand questions of intersectionality and indirect discrimination that allow for it to pave the way for a new legal future for India.
The idea of intersectionality was first developed by Kimberle Crenshaw, an American scholar in the field of critical race theory, when she was speaking about black women (Crenshaw, 1991). So if you are a Dalit and a woman, you aren't facing two distinct discriminations, but rather a particular experience of discrimination as a Dalit woman. We haven't had much discussion on intersections yet. In terms of legislations, the Persons with Disabilities Act and the Prevention of Atrocities Act deal with discrimination against certain categories. But how does one go about dealing with discrimination on multiple grounds was a question posed by Jayna Kothari, an advocate in the Bangalore High Court, in the consultation held by the Alternative Law Forum in 2012, for understanding the need for a comprehensive anti-discrimination law (Sheikh, 2014). It is this intersectionality that this project aims to address. The other aspect is the lack of an expansive interpretation of Article 15 of the Constitution where only five grounds of discrimination are protected. Danish states that,

"There is little or no recognition of the concepts of indirect discrimination and reasonable accommodation in India law, whether constitutional or statutory. Both Articles 15 and 16 have specific affirmative action provisions for women, children, 'scheduled castes and tribes' and 'other backward classes'. On the whole, attention has been spent instead on the limits of affirmative action. In practice, however, reservations have come to be regarded as the most important, if not the only, means of taking affirmative action. The problem then is that we haven't focused on how to make reservations more effective, how to ensure that once you get individuals into institutions how do you deal with more systemic effects of discrimination and exclusion against them."

These aspects then lay the foundation for the need for an anti-discrimination legislation to address what Danish refers to as 'analogous experiences of different communities who are discriminated against'.

The efforts are presently underway in working towards a draft document that will showcase the legal framework for a potential legislation. Presently they are occurring at two levels. One, the doctrinal, where there is an extensive mapping of existing laws and its protection of discrimination on certain grounds and then the aspect of narratives or lived experience of discrimination. The team has been interviewing activists, civil society lawyers and individuals on how they experience discrimination on the basis of their identity. They then intend to bring both these aspects together which Danish recounts is a messier process than he describes it to be. 'The challenges with this project are many' says Danish, the first being to make the case on the ground for the viability of such an initiative.
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Despite this challenge he states that the only way to build political consensus around issues of discrimination is to forge alliances across different groups, given that experiences of discrimination can overlap. He concludes that there is a need for building alliances between vulnerable communities by recognizing the larger notion of discrimination as opposed to an isolated experience of injustice.

This effort of developing a comprehensive anti-discrimination framework will provide a legislative base for society to prioritize the need for equality and justice. It will do so by enabling victims of multiple strands of discrimination to seek the shelter of law. As Danish Sheikh says, ‘Prejudice is not going to end soon so we need a system that is accessible and a system where if something happens to me I can seek remedy; when I face indirect discrimination, to be able to give it a name, which I have not been able to do yet’.

Schools of equality

‘Growing up in India, I felt anger at the normalization of social injustice. My belief that the law was a powerful instrument for social change motivated me to go to law school,’ says Gulika Reddy, as she describes her path towards this initiative. Upon graduating from law school she worked as a human rights lawyer in the Madras High Court. It was here that she realized that good legislation is only part of the solution. Several other challenges exist which lie outside the ambit of litigation. These related to lack of rights awareness, access to counsel and ineffective implementation of the law. To address these issues she set up a new collaborative program that brought together non-governmental organizations (NGOs) and National Law Schools to organize periodic rights awareness programs and dispense free legal aid for indigent and marginalized women. Despite receiving free legal assistance she notices that women at the awareness workshops expressed reluctance to approach the legal system, as they felt further victimized by the judicial process and functionaries under the law. It became apparent to her that insensitivity present within the Court system was symptomatic of widely held beliefs about women and gender roles in society.

Recognizing that gender socialization begins early and is reinforced by societal institutions, culture and media, she started Schools of Equality, an activity-based program that runs alongside the mainstream curriculum in high schools and encourages students to examine issues relating to equality and shift social attitudes that perpetuate gender-based violence and other forms of social injustice. As a part of the programme, they will interact with leaders from social justice movements, lawyers, artists, writers, photographers, musicians, performance artists, and therapists to articulate their views on equality and social justice. The programme enables students to understand diversity and equality,
preparing them to address issues that they are faced with as members of society. What Schools of Equality attempts to do is address the challenge of social acceptance of a legal framework. The program allows students to interrogate and engage with the idea of equality and challenge the perception of identity and its impact on the way discrimination is experienced. Gulika recounts an interesting experiment where students were asked to pen down an entire constitution. In their experience of doing so they have been able to address questions of discrimination at the basic level of a ‘joke’ and reflect on their own practices of discrimination (Shenoy, 2015). This also provides them with the opportunity to engage with the law and understand its spirit which will cultivate a culture of social acceptance of progressive legislations and criticism of regressive ones based on the standards of equality.

They are presently working with schools for underprivileged youth in Kadapa, a rural district in Andhra Pradesh. Her efforts through the Schools for Equality do provide a pathway for establishing a critical link between law and society in the case of discrimination. Though the program in many ways centres on the question of human rights and discrimination, it holds a key in bridging the link between an active citizen engagement in making laws and resolving disputes to a society where such values of equality are understood.

Conclusion

These legal visions provide an insight into the potential legal futures and pathways for India to allow for the law to contribute more effectively to the pillars of Vikalp Sangam. I would like to conclude with the view that law as a site of struggle will continue to act as a space where these pillars are realized or challenged but law as Auden says, is like love which is flippant, confusing yet eternally fulfilling.

'Like love we don't know where or why,
    Like love we can't compel or fly,
    Like love we often weep,
    Like love we seldom keep.'

(Auden, 1940, pp.113)

Endnotes

1. In 2014 the present government formed a High Level Committee chaired by T.S.R. Subramanian to review four key environmental legislations. The recommendations of this Committee sought
to dilute present environmental clearance processes with a single-window clearance by suggesting amendments to the four key legislations. Details of the recommendation are available at http://www.accessinitiative.org/blog/2014/11/recommendations-high-level-committee-review-environmental-laws-india (Last visited 24 November, 2015). These recommendations went on to be rejected by a parliamentary standing committee set up on the issue.

2. In 2014 the Modi led government introduced amendments to the present Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 through an ordinance. The most concerning of the proposed amendments was to do away with provisions which required consent of the gram sabha in the case of projects being undertaken for public purpose and those undertaken under a public-private partnership. Though the land ordinance lapsed, the state governments have been empowered to make amendments in the state laws in accordance to the ordinance.

3. The democratic space for communities is shrinking because of the reducing spaces for community engagement in the process of gaining environmental clearance and land acquisition based on the proposed amendments.


5. 73rd and 74th amendment to the Constitution were brought about in 1992 for the establishment of the Panchayat Raj system in rural areas and Municipalities in urban areas to realize the objective of localized governance.

6. Public purpose has been defined in Sec 2 (1), of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

7. Lok Adalat or people’s court was an initiative by Justice P.N. Bhagwati to introduce a non-adversarial system of dispute resolution in villages.

8. The rule of **locus standi** refers to the requirement that a person who brings a case before the court should have suffered a legal injury. This rule has been altered in the case of Public Interest Litigation where any person can institute a case before the court, if there is a question of public interest.

9. Gram Nyayalayas are village courts established by the Gram Nyayalayas Act, 2008 to ensure speedy justice.

10. Mediation here is being referred to as a formal process where parties to the dispute, guided by a mediator, arrive at workable solution to the dispute derived by the parties.

11. Khap panchayats are panchayats in rural areas composed primarily of male village elders.

12. The pillars specifically are ecological sustainability, social well-being and justice, direct and delegated responsibility, economic diversity and cultural and knowledge democracy; see ‘The Search for Alternatives: Key Aspects and Principles’, at http://www.vikalpsangam.org/about/the-search-for-alternatives-key-aspects-and-principles/#_ftn1.
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