

Readers' Forum

*Readers often send us long letters sharing their thoughts and providing new insights into issues or situations that **Manushi** may not have dealt with before. Often these submissions do not fit the format of articles. Therefore, we have as a regular feature this Readers' Forum - a space in which you can share thoughts, views and experiences with others. Letters that come to us in response to specific **Manushi** articles or to the magazine itself will be published separately under a new title: **Responses to Manushi***

Women as Property

Despite all talk of women's emancipation, women are still viewed and continue to be treated as sex objects. Take the case of adultery, which is an offence under Section 497 of the Indian Penal Code 1860, which provides as under:

Whoever has sexual intercourse with a person who is and whom he knows or has reason to believe to be the wife of another man, without the consent or connivance of that man, such intercourse not amounting to the offence of rape, is guilty of the offence of adultery and shall be punishable with imprisonment of either description for a term which may extend to five years or with fine or with both. In such case the wife shall not be punished as an abettor.

As is evident from the wording of the Section, the offence of adultery is committed only when a man has sexual intercourse with a married woman, *without the consent of the husband*, thereby implying that the offence is committed against the husband of the lady in question. The Section makes it clear that it is only the male adulterer who is to be punished and not the married woman with whom adultery is committed.

It can be convincingly argued that 'adultery' should no longer continue to be an offence in "modern times.

Indeed a large number of countries have repealed penal provisions which criminalised acts of adultery. Keeping aside this larger question for the time being, however, let us consider what is the reasoning whereby adultery is an offence only if committed with a married woman and why it is only the man who can be prosecuted. It appears clear that the underlying reasoning behind this law is that a married woman is the property of her husband, but not vice versa. Therefore, a person who has sexual intercourse with her commits a crime against the husband!

Again, let us consider provisions related to adultery in the Indian Divorce Act of 1869, which have been held to be constitutionally valid by the Supreme Court.

Under Section 10 of this enactment, a Christian husband can seek divorce from his wife on the ground that she has committed adultery. She is, however, not entitled to seek divorce from him purely on the ground of adultery.

Amazingly, under Christian matrimonial law, a husband can even claim damages from the person who has committed adultery with his wife.

It is as if some unauthorised person has made use of his property and must therefore pay compensation.

Thus, sadly enough, existing laws continue to suggest that a woman can be treated as a sex object and the property of her husband. Little thinking has taken place on reforming legislation which is demeaning to the status of women. Legal provisions, such as those discussed above, would seem to support the proposition that marriage is quite often nothing but licensed prostitution.

Udaya Madhudarshini, Delhi

Need for Uniformity

The verdict of the Supreme Court in a recent case of a Hindu man getting converted to Islam for a second marriage without divorcing his first wife is to be welcomed. The court's call for a rethinking and early action on the long-overdue civil code is noteworthy and should be applauded by sceptics, critics, fundamentalist leaders, secularists and pseudo-secularists, and the lay person alike.

Sections who are opposed to the common civil code need to understand the ground realities prevailing today. The fear that the code will hurt religious tenets is fanned and inflamed by religious leaders.

Have the so-called leaders and persons professing to champion their religious beliefs any idea about the problem faced by those who seek legal employment, universal health care, etc. We talk in terms of numbers, but do we ever talk about programme content and quality? This again points to a gap in our perception. Legal literacy for all can no longer be brushed aside. It is a dire necessity for the near future redressal of marital problems? Have they ever been to a 'family court' or spoken to those who do so? I have a sinking feeling that they have not.

One must also not lose sight of the fact that there is an urgent need for reform of the existing Hindu Code. The judgement that Hindu laws have already been reformed is totally erroneous. Discriminatory provisions detrimental to women in property, inheritance, succession, guardianship rights and matrimonial problems persist. The fact that Hindu fundamentalist groups are vociferous in their demand for an immediate, uniform civil code* does not and should not mean that all is well with the current Hindu code. Unnecessary fear in the minds of the people in different communities is created by the irresponsible acts of such groups, which should be curbed and punished.

Dr. Asgar Ali Engineer's article in *The Hindu*, dated May 17, calls for an option — an alternative common civil code. But who will really exercise their right under such a common civil code? Giving an option won't work for people will simply not exercise their option. By and large, our people are gullible enough to swallow whatever outrageous exaggerations are spewed out by religious leaders. They do not think for themselves, they are too afraid of alienation from their own community. Merely formulating a common code will not solve all problems. But it is a first step.

Any move for a codification of a



common code should be preceded by an objective unbiased public opinion survey. If the said law is for the people, then naturally, people must have a major say in its formulation and enactment. With the vast human and material resources at their command, the central and the various state governments need to utilise existing resources with the help of research institutions to find out people's opinion regarding the need for a common civil code.

A popular perception is that deciding about a uniform civil code is basically a Hindu versus Muslim personal law issue. Needless to say, one must not lose sight of the fact that even if Muslims are a minority in India, Christians (and others like Parsees) are also a significant segment of the minorities. Christian laws are far more outdated and discriminatory. What about the tribal personal laws in different regions of the country?

Moreover, ignorance of the various laws and public apathy to legislation are facts which cannot be ignored. The writer has an on-going research study that bears testimony to the legal ignorance amongst her respondents in Madras city (women and men from among Hindus, Muslims and

Christians). This ignorance is exploited by the government and political parties, as seen in their reluctance to raise the issue at public forums. We talk vaguely about attaining total literacy,

Dowry, rape, bigamy, divorce, maintenance, property, adultery, prostitution, abortion, female infanticide.... the list is endless. One can say that these issues are feminist. It is not so. The codification of a civil code in the personal laws of all religions is necessary and if ever enacted will be a precedent for more progressive laws.

Some suggestions for the enactment are :

O Codification of Islamic laws should precede the common civil code.

O Codification of each personal law should inculcate the basic tenets of Islam, Christianity, Hinduism, Sikhism, tribal religion, etc.

O Simplification of legal terms in layperson's language.

O Procedural formalities to be minimised.

O There must be equal concern for both parties.

O Provisions for monitoring and reevaluation.

O Periodic assessment and follow-up.

O Making provisions for documentation.

O Guidelines for enforcement and punishment.

O Provision of safeguards against misuse of the law.

In this connection, a committee on a common civil code, on the lines of the 1975 Committee on the Status of Women, needs to be set up. The membership can be made voluntary at the regional level, comprising human rights and women's rights groups, NGO activists at grassroot levels, research scholars and committed citizenry. The committee can be vested with real powers to find out if the public is ready to accept and abide by a common civil

code. If so, the committee should be empowered to formulate such a code. Accountability of the members of the committee as well as the public is essential for the success of this endeavour.

Although the uniform civil code is long overdue, it is fraught with man-made problems, not easily solved, but they can be solved. Enacting it, with people's knowledge about the law, their approval and participation, will be a beginning. It remains to be seen if this issue, too, will be a nine-days-wonder, merely loud noise and no action.

V. Janaki, Madras, TN

Stereotyped Emancipations

"How can you do this to yourself? You want to become a housewife after so many years of education? What a waste!" This is the response Anusuya received from her friends when she decided not to take up a career. She is an intelligent and articulate young woman doing her masters degree from a premier university. But since she has failed to fit herself into the newly popular role of a career-oriented office going woman, she has been categorised as unemancipated.

These days, in order to prove one's emancipation, a woman has to be career-oriented. Often, the option for her is limited to choosing a career. But hasn't the woman also made a choice when she decides to be a

housewife of her own free will? Choice should not be defined only in terms of rebellion; a woman who chooses not to rebel also deserves the freedom to choose her own style of life and live it meaningfully. Relatively recently women have started breaking away from the stereotype of the shy, cute, submissive woman who has to stay indoors and guard her chastity. Unfortunately, the Indian woman is

now struggling to conform to another stereotype imposed on us.

Moreover, the woman who compels herself to fit into the new stereotype of the single, independent woman without actually desiring such a life is unemancipated, as is the woman who stays with a husband who beats her every night. Both fail to create a space for themselves. Very often the urban middle class woman fails to critically look at both the stereotypes. For example, in her desperate attempt to be an emancipated woman, she may even go to the extent of blindly rejecting every custom and tradition, though she would personally love to be slightly traditional.

It's high time we realised the utter futility of such rigid definitions of emancipation. To be emancipated, one need not necessarily be single, career-oriented, and independent. One need not be, for example, a cigarette smoker. Such myths must be exposed and rejected.

Emancipation comes from within. It cannot be realised by fitting oneself into the stereotypical role feminists impose on us. Emancipation of the mind must take place in the minds not only of women but of men as well. For, men are also victims of this unequal system. It's only then that we can be a liberated people.

Smeeta Mishra, New Delhi D