

The Law and its Implimentation: Criminal Law by Flavia Agnes. P. 187-188. In Violence Against Women: Women Against Violence edited by Shirin Kudchedkar and Sabiha Al-Issa. Delhi: Pencraft International, 1998.

The Law and its Implementation: Criminal Law

Flavia Agnes

It is necessary to draw attention to the tradition of over legislation in India. In the 1980's and 90's there has been focus on various issues in the women's movement, especially on legislative reforms. The result is the highest number of laws on violence against women.

However, all this legislation is haphazard, partly due to lack of understanding in formulating issues, partly to the indifference of the legislature and many other factors. It is deplorable that women cannot get justice from the courts because these laws are only "paper tigers." There are enough loopholes for perpetrators to escape through. Experience as a lawyer even leads one to advise women not to approach courts.

Every society has its own cultural manifestations which breed violence. Women in India die of violence, whether the deaths are suicide or homicidal. Suicide is a form of escape for Indian women, just as alcoholism is an escape in the West. It is not only dowry demands that lead to so-called "dowry deaths." (Summary)

Discussion

Ms. Agnes's advice to women to keep away from law courts gave rise to deep concern among some activists. They voiced their disappointment at being let down by a model activist and lawyer. Faith must be maintained in the legal system in a democratic society. Instead of discouraging women, activists must unite and fight against the lacunae in the system.

Others, especially some Canadian delegates, supported her stand. They spoke of similar experience with the judicial system in their country which did not yield any results. Indeed, they stated that the response obtained from the police and courts was anti-women. Statistics Canada in a recent survey, revealed that out of 51% women who had experienced violence in Canada only 9% had reported it to the police. They have been forced to direct action strategies to solve problems for women. They believe that the interaction between publicity, direct action in the community and pressure for legal reform is complementary in bringing about change.

Other Indian delegates too supported Ms. Agnes' stand, favouring an out of court settlement.

Ms. Agnes explained her stand by redefining her position as being rooted in the women's movement. She had studied law to gain an additional skill to help women. She was involved in making law more accessible to women. Her strategy was not so much 'one-woman, one-life, one-moment,' but to develop a legal strategy. Her work involved constant ongoing monitoring of the cases in the courts. She felt it was irresponsible to lead a woman to court without giving her complete support all the way. Women must be prepared to face the consequences of going to court. Chances of winning are negligible, and the only capital to be made out of the dreary court procedure is publicity for the methods used to humiliate and insult women and hamper the path of justice in every way possible.