

Better Implementation than Stringent Laws

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On 21st January 2014 a news outbreak in the Birbhum district of West Bengal, a 20-year-old tribal woman was raped by 12 men on the orders of a kangaroo court for the failure of payment of fine by the woman for the reason she fallen in love with a person outside her community. The couples were also tied up and the court ordered both of them to pay Rs. 25,000. The man was able to pay but the woman could not. The court decreed to allow rape on her[1]. This is a case where the justice system itself engaged in the violations and fails to provide protection to the people. The orders provided by the Kangaroo courts and Khap panchayats are the best example. The beliefs existed in the patriarchal society is that women are considered as a property of men, even from their birth are depending on their father, brother, husband and sons. So, if they cross the limits, her behaviour is seen as outrageous and unacceptable. In the modern Indian society, the things get changed the rigorous rules have been framed but their implementation becomes a great challenge.

Indian Constitution as a complex and longest in its structure ensures the safety and security of its people. India maintains a hybrid legal system which includes Civil, Common Law, customary, religious laws which have been evolved from the colonial era and are still exist in its modified form. Apart from its own laws, India also adheres to the United Nation guidelines on Human rights and Environmental Laws.

Indian laws are vast and wide to the areas regarding women, environmental issues, civil and criminal issues and also extends to several Infrastructural and religious issues. For criminal wrongs there is Criminal Procedure Code and Indian Penal Code to enforce, for civil matters there is Civil Procedure Code and certain acts like Indian Evidence Act, for religious matters there are Personal Laws for deciding the matters relating to marriage, divorce, etc. and for the road and safety matters there is Motor Vehicle Act and there are several other legislations and acts enacted in India. Therefore, the strict laws are already prevailed, but the need of the hour is strict implementation. Only thing is that the implementation should be according to method prescribed by Law, that is, it should be valid before law.

Rights may be visible and constitutionally secured; however, they do not implement by themselves. There is a need of law enforcement agencies who are responsible for it. The three pillars of government are Legislative: who makes the law, Executive; who executes the laws in the society and the judiciary: one who interprets and analysis the law. The executive is one who authorized to implement the law in the society so, if any failure in implementation it is the lack of executive power and they answerable for it. India's law enforcement agencies

have been politicized and starved of resources, infrastructure and leadership. Infact, the government and the executives are the law-makers and at the same time a law-breakers, this has an insidious effect upon our law.

The major factors behind the failure of implementation of law are:

Existence of corruption among the executives is a foremost drawback. Actual motive behind entering into a social service has nowadays changed to the profit making and the misuse of power. Fear of the people against the executives is another fault. If the law protectors itself do the wrongs and cannot be trusted, to whom the public will approach for the security. Those who have money and power will escape from the law and get acquitted. The innocents will be punished. “Ignorantia juris non excusat” is the principle followed in India that the person cannot be escaped from the liability on the reason he was not aware of the existence of law. For that the people must be well aware about the nature of our law and this should be educated to the people. The executives also should maintain the credibility among the people, so that the complaining rates by the victims will increase if any incidence of crime occurred. The biggest fault is the snail’s pace process of judiciary. A case will take long-time to pass a decree. Justice delayed is considered to be justice denied if there is delay in delivering justice there is a chance of people taking the law in their hands and breaking of a law. Even though, fast track and other courts are established along with such an efficient legal professional, the reason behind these slow processes of justice delivery system is hidden and unbearable. The malfunctioning of police who is a guardian of the public is also a most important factor. The duty of police officers is not only to investigate the crime but also should act to prevent the crime. If they are acting properly their duty, then the crimes can be controlled upto a limit. They can actively work in the patrolling duty especially in nights and the availability of their emergency service in 24 hours have been a major contributor of the security. There are several helpline numbers, and these should be fully active and accessible to the people all hours for emergency for immediate assistance of police, fire, health, women safety and children.

The other major causes are understaffed and undertrained employees among the executives. They have to be taught how to handle different situations and increasing the analytical and reasoning power. Lack of technological capabilities necessary to perform quality investigations. Besides these disappointments in criminal matters there is failure of government in maintaining the infrastructure and the natural resources and should make the people aware about the sustainable development. It is the duty of every citizens to protect the infrastructure and public spaces properly and also the government is responsible for maintaining the same. There are various environmental laws instituted in India and the government have not initiated necessary measure to stop pollution, only the awareness has been provided. Awareness campaigns itself not enough for effective implementation of environmental laws but various methods to enforce should needed. If there is a compulsory rule and efficient system, the people will obey the orders.

Mode of implementation of Law:

Public cannot be duty bound to obey the orders directly there should be some pressurizing factor to make them abide by the rules. One of such compelling factors is punishment. These should be properly implemented. Punishment is something which is given in return may be some pain or loss to the wrongdoer to prevent him or others to do the crime. People fear doing the crime because of the punishment imposed by the Law it may be either imprisonment which extends to life imprisonment in certain cases, fine which is imposed may be a burden, and fear to the capital punishment. There are several mode of punishment theories in India, one which compares the punishment to offender as an example to others not to commit the offence, second, which prevent himself doing further wrongs, third is an earlier concept where the same proportion of pain is given to the offender, the last which reform the wrongdoer by teaching him some art or skills and educated for a better living after the term of confinement and this mode is found to be most suitable and prevailing in the modern society.

Punishment as a mode of implementation of law does not proved to be an effective way but to an extent it is a success. The other mode is to be prescribed by the government through some initiatives and programmes. For example, the government has passed Medical Termination of pregnancy Act, it contains the rules and regulations to access safe abortion care and defines when, where and by whom abortion can be performed. But, at the same time the government had taken steps for strict implementation by providing comprehensive safe abortion services at public health facilities, providing funds, regular monitoring of comprehensive abortion centre, counselling tips are also delivered. So, by these steps we can execute the Act. Another example for achieving complete literacy the government has ordered free education of the children for completing at least the elementary education in the 6-14 age group. To compulsory attendance of children, the mid-day meal programme was launched and there are several other scholarship programmes and the higher studies support schemes provided by the government in order to find the talented and provide education to those belong to the lower background. Thus, every act and policies of government comprises of some measures which are to be executed. Some of these measures will be found to be positive but some may not but the failure of a measure resulted in a new policy.