

Strict Laws or Better Implementation

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India has a Powerful judiciary with wellversed people in it which is improving day by day. We can say this by witnessing the recent judgments passed in last few months or few steps taken by Courts. We can say that Judiciary is playing its part in INDIA very well. But then despite having so many laws, amendments, bills etc there are still so many crimes happening in India. Justice GOPAL KRISHNA VYAS of Rajasthan High Court stated that “The country has adequate laws but the main issue arises in its implementation. Its not implemented in letter and spirit and many people seek legal recourse.

I. POLITICAL REASON FOR POOR IMPLEMENTATION:

Law making by Parliament is the first step for these gaps in our legal system. Laws gives ideas and the details of their implementation. It is the implementation of the law that tests its effectiveness in addressing problems on the ground. Poor implementation will make even the greatest law ineffective. Rules framed by the government are used to operationalise laws. These rules provide the nuts and bolts of the law and prescribe how people engage with it on a daily basis. The rules made by the government are therefore as important as the law enacted by Parliament. However, rulemaking to implement laws suffers from three major problems.

First, a law made by Parliament cannot be administered if the government does not frame the rules. The poster child of this issue is the Benami Transactions Act. Enacted in 1988, this law gave the government power to confiscate benami properties. For more than 25 years, such properties were immune from seizure in the absence of framing of relevant rules under the law by the government. Even today, there is no information about the complete, partial, or zero implementation of a law in the absence of rules being framed.

The second problem is the lack of citizen and expert voices in the rulemaking process. Public consultation and feedback can identify potential pitfalls in the implementation of law. However, only a handful of laws made have required inviting of public feedback on rules. The government also does not have a consistent mechanism for soliciting feedback while making rules.

The third problem is the severely limited resources of Parliament to scrutinise rulemaking by the government. Last year, approximately 1,200 rules under different laws were made. Parliament has only two committees to examine these rules. Besides the sheer volume of work, their task is further complicated because they have to review technical rules made under various laws. More than a thousand laws are operational in our country. Our

rulemaking process needs overhauling to ensure consistency between the intent of Parliament while making laws, and implementation of these laws through rules by the government.

II. SOCIAL REASON FOR POOR IMPLEMENTATION:

1. Poor Conviction rates:

Cases under POSCO are increasing rapidly but conviction rates are still very low. In Gujarat, 2.16% are convicted. 15.2% saw acquittals and 82.19% cases are pending.

2. Lack of Political will and public awareness:

Every year before the elections are conducted parties and their representatives promise to bring out laws but after election they are least interested. Key reason of neglecting RIGHT TO EDUCATION ACT 2009 is the same.

3. Lack of reviews of laws and post-legislative scrutiny of laws.

4. High population: India has the 2nd highest population in india. 1.33 billion people.

5. Corruption: it is the truly an alarming problem. India has various state and central level agencies to stop corruption but unfortunately this wont stop

6. People have developed a habit of breaking laws from traffic to rape laws.

Where law loses its respect it becomes difficult to ensure rights and peace. Despite being educated by laws they are still broken.

III. GENDER LAWS

Recent incidents have kept us shocked in India.

When we talk about poor implementation the first thing that strikes in one's mind is of laws which are revolving around women. They are not safe and that's a fact. Nobody can change it unless and until we ourselves do it. Societally sanctioned rape and sexual assault is not new in India. It has been repeatedly established that Indian men assert a claim over the bodies of women, their lives and decisions as well because somehow, orthodox mindset and such families believe that in Indian society a woman exists as an appendage to some man in her life be it father, brother, son or husband. It Comes from history that a women should not cross her limits (Lakshman Rekha) if done her behaviour is said to be unacceptable.

Cases of violence against women are steadily increasing in the country. According to the National Crime Record Bureau, India, there is one dowry death in the country every 78 h, one act of sexual harassment every 59 min, one rape every 34 min, one act of torture every 12 min and almost one in every three married women experienced domestic violence.

Studies from India reported violence in 19–76% of women (75%–76% in lower caste women; 42–48% in Uttar Pradesh and 36–38% in Tamil Nadu; and 19% in an urban slum community of childless women.) In Western India, 15.7% pregnancy-related deaths in the community series and 12.9% in the hospital series were associated with domestic violence. In Uttar Pradesh, 30% men reported beating wives. 22% of woman of childbearing age from a potter community were physically assaulted. 34% of those physically assaulted required medical attention. Once rape has been committed, it confirms that all measures to stall violence have failed. Reaction in the form of declaration of enhanced punishment is largely an expression of helplessness and frustration.

Legislation by itself would not suffice because violence against women is a deep rooted social problem. It is worth quoting late Prime Minister, Jawaharlal Nehru, who remarked: “Legislation cannot by itself normally solve deep rooted social problems. One has to approach them in other ways too, but legislation is necessary and essential and hence that it may give that push and have educative factors, as well as the legal sanctions behind it, which help public opinion to be given a certain shape.”

Women cannot solve the problems by themselves. Women should understand men and men should understand women. Both should work together to eradicate the menace.

IV. CONCLUSION

It is absolutely useless having variety of legislation on statute books where they are not even implemented properly or incapable of implementing. It challenges that law should guide behaviour and punish those who break them. Government should realise that making laws in half job done the other half of implementation has to be developed. Justice has to be fast as it is said that ‘Delayed justice is denied justice’