

# What Does India Need?

## *Strict Laws or Better Implementation*

Akshat Mehta  
Institute of Law, Nirma University  
Gujarat, India

India, a country which is known for its culture, for its heterogeneity, for its diversity, for its culture and what not. But there is one more thing for which India is known now and that is RAPE. As per the data in 2017 total 31237 rape cases were reported in the all the STATES and 1322 cases were reported in all the UTs<sup>1</sup>. Now the question is whether India needs the strict laws or the better implement of the existing laws. To answer this question, the light should be on the fact that India already has the laws for the rape. After the Nirbhaya rape case of Delhi, Justice Verma committee suggested the concept of “Zero Fir.” This concept tells that the FIR for the cognizable offence can be registered in any police station without concerning about the fact that whether the case in their jurisdiction or not. In the recent gang rape and murder of a veterinarian in the outskirts of Hyderabad, the Shamsabad police delayed the filing of an FIR citing jurisdiction, and making the family of the victim run around at a difficult time<sup>2</sup>. On October 12, 2015, the Ministry of Home Affairs issued an advisory to chief secretaries of all states and union territories, to instruct the departments concerned to compulsorily register FIRs. Before that, two such advisories were sent – the first of those in 2013. In these advisories to the states, the Home Ministry had made it clear that a police officer is duty-bound to register a case on the basis of such information disclosing a cognizable offence and FIR has to be registered irrespective of territorial jurisdiction<sup>3</sup>. This shows the lack of implementation on the part of police authority. Moreover, for this, if the police does not take the zero fir then they can be terminated from their duty under Section 7 of the Police Act, 1961 for negligence on duty and under the Section of 166A of IPC for the public servant disobeying the law. The suspension of the three cops of Hyderabad who delayed in filing the FIR is indeed a blessing in disguise. But the question shall remain that how many police officers in India has been terminated of their duty on the above mentioned grounds? As most of the questions, nowadays, this will also be unanswered. Justice delayed is Justice denied', the often quoted words of William Goldstone best portrays the judicial system prevalent in our country<sup>4</sup>. The scenario which is prevalent in India greatly denies the justice. The law in existence ceases to serve its purpose when it is not implemented properly and that's what has been done in the Indian law. This

<sup>1</sup> National Crime Records Bureau, Crime Statistics in India 2017, Government of India (Oct.10,2019), <http://ncrb.gov.in/>

<sup>2</sup> Mithun MK, What is Zero Fir, The News Minute (Dec.2,2019 7:44 P.M), <https://www.thenewsminute.com/article/what-zero-fir-and-why-cops-cannot-cite-jurisdiction-and-refuse-complaints-113345>

<sup>3</sup> Ibid.

<sup>4</sup> Shwetha Vasudevan, Justice Delayed is Justice Denied, [legalserviceindia.com, http://www.legalservicesindia.com/article/1674/Justice-Delayed-is-Justice-Denied.html](http://www.legalservicesindia.com/article/1674/Justice-Delayed-is-Justice-Denied.html)

point brings us back to the main question of the debate that what does India actually need? Strict laws or Better implement.

To answer this it is necessary that we keep in the mind the status quo of the existent laws of India. After the Criminal Law (Amendment) Act, 2013 expanded the definition of rape to include more than just vaginal penetration. Stalking, voyeurism, acid attacks were brought under the Act as punishable crimes. The age of consent was raised to 18 years, below which all penetrative sexual acts will now constitute statutory rape. A rape shield clause was included, where the character of the victim was rendered irrelevant to establishing her consent<sup>5</sup>. Though the marital rape is still not the offence in India but that is a different thought to ponder upon. To make the law serve its purpose functionally and irresistibly, we have to implement it in better way. Before advocating to the assumption that it is need of an hour for India to implement the Strict law, we need to review a might be situation that what if those laws, too, not implemented properly. Would those stricter laws be serving its raison d'être. So it is not the strict laws that India needs, it is better implement of the law that India seeks. In the conclusion I would like to remember Abraham Lincoln with his grate quote that "*The best way to get a bad law repealed is to enforce it STRICTLY.*" This quote indeed gives the answer to our question. Doesn't it?

---

<sup>5</sup> Vasundara Sirnate, Good Laws and Bad Implementation, The Hindu ( May.18,2016 5:11 A.M ), <https://www.thehindu.com/opinion/lead/good-laws-bad-implementation/article5639799.ece>