

A Step towards Social Order

Rigorous Laws or Vigorous Implementation?

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ABSTRACT:

Law may be defined as a set of rules and norms designed to regulate the actions of the persons in a society. A Parliament enacts various laws for regulation of different actions in different areas so as protect the rights of persons as well to point to them their duties towards each other and to the state. But however, to gain people's support for a law, the law has to reflect the public conscience. Testing this notion against the fact that India is witnessing an increase in crime rate, it becomes very clear that the laws are failing to do their intended duties. To cure this situation, whether the laws have to be made stricter or should be implementation be better, is the question which the author will be addressing in this article.
Keywords: Law, Rights, Public conscience, Crime rate, Implementation.

I. INTRODUCTION

It has now become a new trend in India, where despite having committed a heinous crime, the offenders walk freely while the victims are even more victimized. This current situation does remind us that justice is at the farthest end of the world for every aggrieved who live in the other end of the world. Having witnessed high crime rate in recent past, the thought of disproving Thomas Hobbes's quote, "*Law is the public conscience*" pops up in everyone's mind as the operation of law and what the society expects of it are repelling drastically. To make these two points meet and to bring about the confidence of the people in the whole legal system, "Whether India needs strict laws or better implementation of them?" is the question that will be addressed in this essay.

II. LAWS WITH RIGHT RIGOUR OR PROPER IMPLEMENTATION?

Laws providing for strict punishments maybe termed as strict laws. Strict laws are wide enough to even prescribe strict adherence on the part of those who are governed by it. "*Laws are like cobwebs, which may catch small flies, but let wasps and hornets breakthrough.*"¹ In the absence of rigour in laws, the persons with affluence and influence are set free or are having a cake walk throughout the proceedings. But whether strict laws would change this scenario? Indeed not. When the types of offences and their punishments are already covered and provided respectively by the existing laws, the need for strict laws and action in that accordance is a mere waste of time. This notion is very true as one of the reasons for the development of delegated legislation is the "lack of time" for the legislature to enact laws to cover minute details.

Thus, the need of the hour to curb the increasing crime rate is to have better implementation of the existing or any future laws as even if any strict law is enacted, it would be useless unless it has been implemented properly.

¹E.H.W.Meyerstein, *Miscellanies in Prose And Verse 1711*, 257, (John Morphew)

A perfect example for this would be female foeticide. *Section 23 of the Pre-Conception and Pre-Natal Diagnostic Techniques Act*² provides punishment for classes of persons who contravene the provisions of this act. The punishment ranges from providing three years plus fine in case of first conviction and five years plus fine in case of second conviction. The relevant portion of the section reads as,

“(1) Any medical geneticist, gynaecologist, registered medical practitioner or any person who owns a Genetic Counselling Centre, a Genetic Laboratory or a Genetic Clinic or is employed in such a Centre, Laboratory or Clinic and renders his professional or technical services to or at such a Centre, Laboratory or Clinic, whether on an honorary basis or otherwise, and who contravenes any of the provisions of this Act or rules made there under shall be punishable with imprisonment for a term which may extend to three years and with fine which may extend to ten thousand rupees and on any subsequent conviction, with imprisonment which may extend to five years and with fine which may extend to fifty thousand rupees.

(2) The name of the registered medical practitioner shall be reported by the Appropriate Authority to the State Medical Council concerned for taking necessary action including suspension of the registration if the charges are framed by the court and till the case is disposed of and on conviction for removal of his name from the register of the Council for a period of five years for the first offence and permanently for the subsequent offence.”

The fact that the Supreme Court in *Federation of Obstetrics and Gynaecological Societies of India (FOGSI) Vs. Union of India and Ors*³ has upheld the validity of this provision proves that India has a constitutionally valid law which covers this issue while the truth that there exists disequilibrium in the sex-ratio of India shows the poor implementation of the same enactment. Thus, in order to prevent female foeticide, there has to be good implementation of the enactment so that every offender would be punished promptly.

There are so many cases to cite in this regard but, to cite a very recent example to hold that “proper implementation is the right key for good order” is the case that shook the whole of the nation: *Unnao rape case*. The instance of this case proves improper implementation of laws even after witnessing the landmark *Nirbhaya gang rape and murder case*.

III. CONCLUSION

In order to deal with the rising crime rate and to administer justice, it is very important that the enacted laws should be realized properly. Because, when there are good laws, its object is not meted out if there is poor implementation. Even in case of bad laws that are either detrimental to the society or not updated, proper implementation is necessary to do justice to the object of that act. Thus, it would be right to say that more than

² Pre-Conception And Pre-Natal Diagnostic Techniques Act, 1994, No.57, Act Of Parliament, 1994.

³ (2019) 6 Scc 283

strict laws, better implementation of laws will itself be enough to bring about a change in societal order, failing of which would either aggravate the existing issues or provides for newer problems.

According to the legal maxim, “*Ignorantia juris non excusat*”, the defense of ignorance of a law is not an excuse because it is presumed that everyone, found in the territory of India, knows the laws of the land. But in reality, people actually do not know many of the laws that govern them. In this scenario, enacting stricter laws will no way prevent crimes as people might not be aware of what the law is or what the punishment is. But if there is a better implementation of the laws, everyone would be well-informed of what is happening around them as the offenders would be tried and punished promptly and according to the provisions of law.

Amending laws to make punishments stricter is not going to reduce the crimes but better implementation of the laws will definitely be effective and efficient, so that the prompt actions of the authorities, the timely disposal of cases and the fear of being punished will prevent the emergence of future offenders.

“Laws or Ordinances unobserved, or partially attended to, had better never have been made.”

- George Washington