

# Rationality of Better Implementation and Amendment of Existing Laws Over Strict Laws

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## ABSTRACT:

*A crimeless state is a delusion. So, the question that arises is, society has crime but what should be done to reduce it whether to make better laws or have a stricter implementation of the existing laws? Stricter laws mean the people will fear the repercussions and will find loopholes to bypass these stricter laws and there will be evolution of undesired fascism and anarchy. What needs to be shaped is the perception and judgement of the citizens. A competent and stable government and an educated and dedicated workforce is needed for betterment of the nation to implement the already existing laws. To ensure that a person doesn't go out of line making the line shorter isn't the solution. Educating the person why stepping out of line is wrong is the correct approach. Ensuring that the person has no need to cross the line is good governance. If amendments are made for making the law evolve with the current dynamic nature, then the amendments ensuring better implementation is ensuring the machinery works in the correct fashion. For better implementation a prerequisite is efficient regulation. What makes a country progress is empowered citizens not citizens who are crippled by strict laws and authoritarian governments. Government must acknowledge India's weak performance in enforcing the rule of law and take immediate action to close the widening gulf between principle and practice that is by better implementation of the existing laws with the needed amendments in the laws with the time.*

**KEYWORDS:** *Amendments, Implementation, Stricter Laws, Government, Education, Dynamic, Justice, Authoritarian, Citizens.*

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India has more than 1200 Statutes in existence with more coming in picture. These laws have a wide range be it relating to the constitution, motor vehicles, wildlife, food safety, insolvency, environment, medical, citizenship or the criminal and civil procedures codes and many more. We have laws for everything, and even punishments and penalties for the same. Punishment is given when there is a wrongful act, or a crime committed. But crime is instinctive or meditative and the judicial system treats both as different frequency of crimes. What serves as an exception is when the guilty is a person of mental handicap, of psychotic nature then he gets the defense and is not held guilty. Punishment given might be preventive, deterrent, reformatory or retributive in nature. Punishments for individuals acts as a preventive measure or a form of deterrence to undertake similar acts and as a medium of moral education for the society at large. Even with clause for punishment existing, crimes will continue to happen. A crimeless state is a delusion. So, the question that arises is, society has crime but what should be done to reduce it whether to make better laws or have a stricter implementation of the existing laws?

A state can be ruled by fear or by rationality. If crime is increasing in a country, it's not because of weak laws but because of the state and lack of awareness amongst the citizens. In our country nowhere does perfect implementation of law exists. The ever-breeding corruption in the system makes the implementation tougher which in turn makes the citizen ignorant and rule of thumb replaces the rule of the nation. Mob justice is still seen as the right way in many rural parts of the country and practices which are considered unconstitutional still take

place. What this points out to is that the law of the country is still seen as secondary and the rule of the society is seen as divine justice. Fear can never be a driving force to shape a society. Stricter laws mean the people will fear the repercussions and will find loopholes to bypass these stricter laws and there will be evolution of undesired fascism and anarchy. What needs to be shaped is the perception and judgement of the citizens. Preventing desperation among the masses being primary action.

A commonality among the nations with high crime rates is their poor economy, the poor living standards, lack of awareness of the citizens and widespread poverty throughout along with lack of education. So, the chain of events pushes the country into chaos where the citizens choose a life of crime rather than working honestly. The chain of events starts from the top, from the government when the leaders cannot rule the state with efficiency which causes turmoil and desperation among the nation. A competent and stable government and an educated and dedicated workforce is needed for betterment of the nation to implement the already existing laws.

Every element of India's rule of law supply chain—including the legislators who draft the laws and the police, prosecutors and courts who enforce them—is problematic. Indeed, the supply chain, never strong to begin with, has become deeply broken—threatening not only the rule of law but a belief in the value of law itself. Weaker enforcement system virtually guarantee that the powerful will transgress with abandon. India's investigative agencies have become politicized and starved of resources, infrastructure and leadership. While the judiciary has many bright spots—including the Supreme Court—the courts on the whole face challenges ranging from vacancies and backlogs to flawed efforts at self-regulation.<sup>1</sup>

Fear is curbing what a citizen of a democratic holds most close to his heart- Freedom. When you steal this freedom, you are restricting the citizen from her fundamental right. If the lawmakers are on a way to make amendments and impose stricter laws, then this shows the incompetency in their running of the country. To ensure that a person doesn't go out of line making the line shorter isn't the solution. Educating the person why stepping out of line is wrong is the correct approach. Ensuring that the person has no need to cross the line is good governance.

But if the same amendments are made for making the law evolve with the current dynamic nature then the amendments ensuring better implementation is ensuring the machinery works in the correct fashion. The whole of the mindset of the current workforce in the machinery should be changed, there must be a total revolution in the work ethic of the people who ensure the law is being followed. For better implementation a prerequisite is efficient regulation. These two works as two pedals of a bicycle. When force is upon both at the right time and in

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<sup>1</sup> Devesh Kapur, *The Law Laid Down, India has law but little order, laws but limited justice. Where did it go wrong?*, Center for the Advanced Study of India, University of Pennsylvania., Outlook India, 7 Jan, 2013, available at <https://www.outlookindia.com/magazine/story/the-law-laid-down/283672>

the right order then balance will be there, and the cycle will move straight. If at any point extra force will be exerted on any pedal, then there will be a hard fall. Which is what is happening when you impose and enforce rather than implement and regulate. The cycle falls and the citizens resist law and order, anarchy takes over. The best example is the storming of the Bastille in France. If lawmakers cannot make the right laws, then the citizens take the law in their own hands and rebellion takes place.

Also, depending on the subject of law that is being addressed it must be decided where we need stricter laws or where we need better implementation of the existing laws. For laws relating to the environment protection we don't need strict laws, but we need better implementation. Similarly, for laws relating to sexual harassment we need strict laws along with better implementation. How can the Police Act, 1861 still be regulating the police in 2019? It needs amendment, situation of 1861 and 2019 are totally different. Are encounters the way of serving justice? The recent act of the Hyderabad Police is something which is being celebrated everywhere, the same police who didn't file an F.I.R but the act has indeed raised a sense of gratitude amongst the outrageous people. But when thought, don't the accused have rights to be heard? Was the encounter an only way? Agreed, they have committed the heinous crime of rape, but still they have a fundamental right to be heard and this is the reason why we have the judiciary. The counter that is heard here is the instance of Nirbhaya case, where even with the judgement of death penalty announced it has not been executed. This is what needs reform in the Indian System. "Better Implementation, Quick Implementation" It is here where the system loses the confidence because "Justice Delayed is Justice Denied" and the delay points out how dysfunctional the implementation is and how flawed the system is. The flaw is only in the way the duties are carried out, how the work ethic and culture has shaped the implementation of our laws.

The laws being archaic are practiced in a partial and corrupt manner. The biggest challenge for our country is the ever-widening gap between the law in the books and their dysfunctional implementation on the field. The people of the country do not completely believe in the laws and the government bodies they never want to tangle in the unending government procedures. Filing a case is the last option for every Indian. With lack of trust in the system that the grieved human knocks on the door of already burdened court with a hope of getting his grievances addressed and seeing justice delivered.

So, in conclusion what we must do is to screen our laws, change the laws which are old which don't help the citizens but make their approaching the system harder. Making stricter laws is just a short route for administrating a country, it is authoritarian in nature and shows the failure of the government in running the country. Better implementation by a change in approach, culture and ethic of the governing bodies. Curbing the corruption and the partial implementation of the laws along with necessary regulation of the law. So, what makes a country progress is empowered citizens not citizens who are crippled by strict laws and authoritarian governments.

Government must acknowledge India's weak performance in enforcing the rule of law and take immediate action to close the widening gulf between principle and practice that is by better implementation of the existing laws with the needed amendments in the laws with the time.<sup>2</sup>

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<sup>2</sup> Devesh Kapur, Milan Vaishnav, *Strengthening India's rule of law*, LiveMint, 9 June, 2014, available at <https://www.livemint.com/Opinion/N3pY337INutBRtXQs7GO3O/Strengthening-Indias-rule-of-law.html>