

The Conundrum of Choice Strict Laws or Better Implementation in Context of Recent Amendments

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India Laws as they exist play a very important role in the smooth functioning of the society. But with the passage of time, certain changes that take place in the society require the laws to be moulded in such a way so as to suit the circumstances and fill the void created due to the change in circumstances. So, whenever the question in relation to shaping the laws as per the requirements of the society arises, the very first question that comes up in the mind is whether it should be done by the introduction of stricter laws or introducing laws that would help in the better implementation of existing laws. There is no magical formula to come to a satisfactory conclusion while answering this question, instead, the answer has to be found by taking into account the prevailing circumstances. Over the years, various amendments have been introduced in various legislations and their success or failure serves as a guiding light for us to know whether to come up with stricter laws or better implementation. The experience over the years has taught that it is the amalgamation of both strict laws and better implementation in the right proportion that helps to address the various issues that arise due to change in circumstances and also to fill the void that arises due to these changes. In order to gain a better understanding of the topic, we will analyse The Motor Vehicles (Amendment) Bill, 2019 and The Protection of Children from Sexual Offences (Amendment) Bill, 2019 which have now been passed and have become the part of original legislations.

I. THE AMENDMENTS OF 2019

Before we go on to discuss the amendments that have been introduced in the year 2019, we need to understand how strict laws and their implementation can help our society. The intrinsic role that strict laws play is to act as a deterrent so that the offenders or the criminals think twice before acting against the laws put in place by the legislature. Similarly, if there is no implementation of these laws, the exercise of laying down these legislations would prove to be a futile exercise as no actual results would be seen on the ground. So, the solution lies in giving importance to both aspects rather than focusing on only one of them.

- **The Protection of Children from Sexual Offences (Amendment) Bill, 2019**

Through the Motor Vehicles (Amendment) Bill, 2019 and The Protection of Children from Sexual Offences (Amendment) Bill, 2019 we will see how strict laws have a role to play but they fail to prove their worth when they are not practically implemented on the ground. The legislature realizing the necessity for addressing the issue of child sexual abuse came up with amendment Protection of Children from Sexual Offences (Amendment)

Bill, 2019, which was passed by voice vote with members cutting across party lines to support the crucial legislation. The amendments were long-awaited and with the passing of the 2019 Amendment Bill new and stricter provisions have become the part of the POCSO Act. One of the most important addition that has taken place is that of inclusion of the death penalty as the maximum punishment and also the increase in the minimum punishment from ten years to 20 years for aggravated sexual assault on children in Section 6 of the Act. This is a clear indication of stricter laws being put in place seeing the rise in number of child sexual abuse cases. A bench of the Supreme Court while dealing with suo moto PIL learned that 1.5 lakh POCSO cases were pending in 670 designated courts.¹ It was also brought to the notice of the Apex Court that as per the data collected through all High Courts, 24,212 FIRs have been registered from 1st January to 30th June in 2019 across the country on incidents of child rape. It is very unfortunate to note that the trial has only begun in 6449 cases and Trial courts have decided only 911 cases, which comes out to be just 4% of the total cases.²

The example of poor implementation came up in the Kathua rape case where it took 16 months to reach trial and for the main accused to be convicted, whereas the POCSO Act prescribes the time of one year³ even though not mandatorily. National Crime Records Bureau data of 2016 exposed the actual state of affairs as it revealed statistics that actually shook the conscience of the nation. The conviction rate in POCSO cases was found to be just 29.6% while pendency was determined as high as 89%.⁴ To address this, the Apex Court in the suo moto PIL, asked the Centre to set up special courts, which should be funded by the Centre as well. The statistics and the directions of the Supreme Court clearly indicate that though strict laws have been in place previously and some have recently been added but the implementation has been a cause of worry, and therefore the idea of special courts has been mooted so as to implement the laws that have been enacted. This emphasize the need for better implementation of the existing laws as well as the stricter laws being introduced by the legislature.

- **The Motor Vehicles (Amendment) Bill, 2019**

Similarly, when we talk about the Motor Vehicles (Amendment) Bill, 2019, realizing the need of the hour the legislature introduced certain new provisions as well as refurbished some existing provisions so as to bring them in line with the present requirements, with the ultimate aim to deal with the problem of road safety efficiently. It was implemented throughout the country on 1 September 2019 and has been the central point for discussion since then due to the steep hike introduced in the fines to be paid on violation of the rules. This has led to appreciation

¹ *In re Alarming Rise in the Number of Reported Child Rape Incidents*, (2019) 8 SCC 300.

² KRISHNADAS RAJAGOPAL, *SC ORDERS SETTING UP OF SPECIAL COURTS IN DISTRICTS WITH OVER 100 PENDING POCSO CASES*, THE HINDU (JULY 25, 2019, 1:51 PM), [HTTPS://WWW.THEHINDU.COM/NEWS/NATIONAL/SC-ORDERS-SETTING-UP-OF-SPECIAL-COURTS-IN-DISTRICTS-WITH-OVER-100-PENDING-POCSO-CASES/ARTICLE28707581.ECE](https://www.thehindu.com/news/national/sc-orders-setting-up-of-special-courts-in-districts-with-over-100-pending-pocso-cases/article28707581.ece).

³ The **Protection of Children from Sexual Offences Act**, 2012, § 35.

⁴ National Crime Records Bureau (Ministry of Home Affairs), Government of India, *Crime in India:2016 Statistics*, <http://ncrb.gov.in/StatPublications/CII/CII2016/pdfs/NEWPDFs/Crime%20in%20India%20-%202016%20Complete%20PDF%20291117.pdf>.

on one hand for putting the lives of people above the value of money which is unfortunately not very often seen nowadays and on the other hand subjected to criticism on the grounds of the heavy burden of fines on the people. Just after the introduction of the amendment, several states took a firm stance to not implement the new Motor Vehicles (Amendment) Act citing steep penalties. Some states gave the reason that it would overburden people while others tried to justify the non-application on the grounds that it would lead to higher levels of corruption. The saddest part is that if the States which top the list of number of deaths being caused by road accidents refuse to implement the amendments would lead to the defeat of the actual purpose with which amendments were introduced. This will not even give a chance to test the effectiveness of higher fines as no substantial data would be available to undertake the comparative analysis. One of the reports released by the Ministry of Road Transport and Highways revealed that 1.47 lakh people lost their lives due to road accidents in 2017⁵ and the situation continues to be gloomy even in 2019. This proves that the implementation of the laws has a very important role to play or else the effectiveness of the new laws and even the existing laws can't be tested. This defeats the very purpose of introducing the laws and thus leads the society towards a state of chaos.

II. CONCLUSION

Taking the discussion forward we realize that it is not just the good intention nor the rolling out of the beneficial legislation and amendments but the actual implementation of them is what really matters in the end. In case the implementation of the amended provisions is made impossible due to one reason or the other then the whole exercise proves to be futile and the prospective benefits which could have been accrued die a premature death. The fact that hurts the most is that even though laws are in place to tackle the cases relating to child sexual abuse and other matters, the incidents don't appear to be declining as each day the newspapers are full of news reports relating to the commission of such offences and crimes. This also highlights the lack of awareness and poor implementation of various legislations. After going through various issues and arrangements we conclude that though there exist various legislations to address the plethora of issues in the country but the actual implementation on the ground is poor and not as per the required standards to tackle the issues effectively. At best, the laws are being amended as per the requirements of the society, however, they tend to merely stay on the papers and the benefits of the amendments are not doled out to the beneficiaries. Therefore, we can conclude that it is not a matter of choice but a matter of compulsion that introduction of stricter laws as well as the better implementation of laws has to go hand in hand, instead of valuing one over the other.

⁵ Government of India, Ministry of Road Transport & Highways, *Road Accidents in India-2017*, July 2018.