

Strict Laws or Better Implementation

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Terming every brutal incident as the rarest of the rare, barbaric and diabolic¹, the duty casted upon our judiciary never ends. Each day is now becoming colder than a night of December for every girl in the nation. Then *Nirbhaya*² to the now *Hyderabad* and *Unnavo*, women in India are being assaulted sexually, killed brutally and many more made to survive before the boasting 70 year old prestigious Constitution of ours which forgets for what cause it exist when it comes to the case of women in India.

Say for what we don't have laws in India. The country has bundles of codified rules and laws for anything and everything and they are the best too. But say what, the problem is in the clutches. Better implementation of nothing happens in this nation. Good laws just exist to be the loop holes for the culprits to fool the Indian legal system. The great scholar *Swami Vivekananda* said, "best thermometer to the progress of a nation is its treatment of its women". We just have failures in this scenario.

Umpteen examples of grave injustice against women can be quoted from the past. It's not that there are no laws but it's the failure of our machinery that's to be questioned. Why don't the people fear the laws. Why don't they step back from committing another sin. It's because that we care more for the welfare of the guilty than the victim. The justice always steps in so late. We forget the fact that "delayed justice is denied justice". People thus have lost faith in the government and the judiciary which entices them to take laws in their hands like what happened in the Hyderabad encounter killing of the rapists who raped Disha, a 26yr old VET. There were applauses for the Police Officer who did it because in the eyes of a common man as a father, as a mother, as a sister, it was that officer who restored justice for them which our judiciary have failed to do from years. Society has changed so veracious and it's the same Indian legal system that has put us to such a point.

According to TRF Annual Poll³ of 2018, India happily holds the first place in the world countries as the most dangerous county for women in six key areas of healthcare, discrimination, cultural traditions, sexual violence, non-sexual violence and human trafficking. The space here is not gender neutral. Article 14 and 21 of Indian Constitution fails for women and children. The Sections 375 and 376 of The Indian Penal Code with all its added modifications are just statutory provisions to blind fool the public. Words but no actions. In *Delhi Domestic*

¹ *Jumman Khan v. State of U.P.* (1991) 1 SCC 752

² *Jumman Khan v. State of U.P.* (1991) 1 SCC 752

³ Thomson Reuters Foundation Annual Poll, <https://poll2018.trust.org>

*Working Women's Forum V. UOI*⁴, the Supreme Court taking into the then present legal system had directed the National Commission for Women to evolve a scheme assisting the victims of rape. In *Railway Board V. Chandrima Das*⁵, the Bangladeshi woman who was gang raped was awarded a victim compensation of 10L which was one of the best decisions that upheld that “right to life means” to “live with all human dignity”.

In the Supreme Court case of *State Of Punjab V. Shamlal Murari*⁶, *Krishna Iyer, J* observed that, “*after all, courts are to do justice, not to wreck this as an end product of technicalities*”. It's not the rapists but the laws and legal system are raping the common man in India, depriving him of his fundamental justice. World's biggest democracy is at question now. A barbaric dictatorship or even an ultimate monarchy would have given people much more safety than this so called biggest democracy. People wanted liberty and protection for their life and property and that's why they had entered into a social contract surrendering their natural rights to a sovereign authority or the 'State'. The condition at present is more savage than the state of nature that existed in the past. Today people fear to live in India. Citizens are just the voting machines and nothing more. The young and the old equally fear of the unsafe space that the society offers them. There are laws governing every public sphere of women and children, but violation of which only happens. Home, workspace, educational institutions, public spaces and where more?

Women and children are unsafe everywhere. It's not about creation of any more strict laws. It would be just new atrocities for show off. What we want is the better application of the existing and prevailing laws. The laws have strength and power to curtail the injustice but the clutches of it, the ones who hold the power to do so never pave a way for it. For every piece of progressive legislation that has upped the ante on women's rights in India, there is still the struggle against first responders who are often reluctant to register a case of rape or sexual assault. Why only the common man always a victim? Those in power or protection never get any betrayal. Coming to the grass-root level the *Village or the Khap Panchayat* is to be curbed first in securing the primary steps of justice. Let something that happened for *Manoj and Babli*⁷ or *Kevin and Neenu* never happen again. It's not fair in enduring rights in one hand and threatening it with the other. Better implementation should cleanse this law system. The judiciary should change the mindset, the police should be the real watchdogs than the supporters of crimes, the people should fear to touch the laws. Nevertheless nothing will change. It's an answerless question in our minds that where should the coming generation run away from all these crimes. How can WE THE PEOPLE swear that our country aims for our protection and welfare? Is India mocking the common man?

⁴ (1995)1 SCC 14; 1995 SCC (Cri)7

⁵ (2000) 2 SCC 465; 2000 Cri LJ 1473

⁶ (2000) 2 SCC 465; 2000 Cri LJ 1473

⁷ *Smt. Chandrapati V. State Of Haryana and Others*

The predominance of masculinity over the other sex is the reason for all the prime threats. It's now a trending act to rape or molest any one you wish and the women and laws have no voice these days. It's pity that the alarming rates of crimes ends with just one question dear nation- will our laws ever change in protecting us? We take pride that our Constitution, even after many criticisms from the jurists, survived 70 years of excellence. But the irony is, it have never. Where lies the excellence when at least 1% of women can't fear to get out of there houses with the promise of returning safe!?. Each news is a sensation and every situation is a lesson that this country, unless adopting a positive and complete change in ruling and outlook, would very soon collapse in its mission and vision that the law makers propounded in the Preamble⁸. It's the verge now; this can't be debated anymore unless a proper action bears fruit!

“To call women the weaker sex is libel, it's the man's injustice to all women”⁹. Manu in *Manusmriti* quoted that, “*yatra naaryastu poojyanthi, ramate tatra devatah*” which means where women are respected divine graces adore that home”. It's time that our nation takes the current fire as serious and looks forward for the effective implementation of all the available laws, covenants and safeguards against women. It's to be decided now, whether strict punishment and proper justice mechanism or to run back to the pre vedic periods where women enjoyed the glorious position in home and society. Let the reforms happen and the new journey be traced. It's the duty of this nation to upheld women empowerment, their political representation and legal reshaping. Acting now through the strict implementation of the present laws is the last resort and not mere debates and words. The situation demands *the sword to be mightier than pen!* to protect me and you.

It's true fact that I can't even promise that my life will sustain until these words reach a platform. Indian society is becoming such savage than the animal world even pities it. Independence was at midnight and we are still searching for it, still in chains. Let there be the proper implementation at least from the next dawn before yet another *daughter of you dear mother India, gets killed.*

⁸ Re Berubari Case, AIR 1960 SC 845

⁹ Mahatma Gandhi, Young India, October 4, 1930