Jus Corpus Law Journal
Open Access Law Journal – Copyright © 2022 – ISSN 2582-7820
Editor-in-Chief – Prof. (Dr.) Rishikesh Dave; Publisher – Ayush Pandey

Do Numerous laws in India weaken the necessary ones?

Iti Anubhuti[a]

[a]Advocate, Patna High Court, Patna, India

Received 27 September 2022; *Accepted* 11 October 2022; *Published* 20 October 2022

Law is a set of rules which were made for the proper functioning of the country and to avoid the chaos which would likely occur when the given set of rules and laws are not being followed or do not function. Various factors have been kept in mind while interpreting these complex laws in India. One of these factors is men's rea and actus reus- one should have a guilty mind to commit that crime. Without the guilty mind, it would not come in crime. These factors are important and confusing at the same time. Not only this had all the other factors too involved for constituting a crime. These elements altogether make the interpretation so difficult for a prudent man to understand in a day to day life plus we are known for the biggest and lengthiest constitution. India is a democratic country we all know that very well. Considering the three pillars of democracy i.e. LEGISLATIVE, EXECUTIVE, and JUDICIARY. The judiciary being the third pillar follows a well-written constitution which is what it is believed that the drafting committee[1] consisting of seven members pulled out various laws of the country and perpetrated the best ones for the Indian constitution. Even though the law of the constitution is being selectively taken, it remains the biggest and longest-written constitution of any country in the world with the most complex and confusing interpretations as well. There are numerous laws in India and with their complex nature, at times they are being twisted in their meaning to delay the proceedings and in some cases, it also resulted in passing the verdict in favour of the accused and against the victim. Our judiciary system lags and is defamed for late justice delivery. To add to this problem it has ultimately acted in the loss of faith in the judiciary system on the part of the commoners or the citizens of the country. Numerous laws weaken the laws which are so important and some

[1] 'Drafting committee' (*Constitution of India*) <https://www.constitutionofindia.net/constitution_making_process/drafting_commitee> accessed 26 September 2022

are basics that shouldn't be avoidable. So the foremost question that arises in our minds is that- Whether our constitution being the lengthiest is beneficiary. Or just the extension of the expression and the maxim i.e. 'Numerous laws in India weaken the necessary ones'.

Keywords: *constitution, crime, fundamental rights, judiciary.*

INTRODUCTION: WHY THE NEED FOR LAW AROSE?

I would like to highlight this statement by giving a fine example from my law school. In my law school at the entrance of the main door for the classes it has been written the phrase- "Law is the king of the kings". Nothing is mightier than law, by whose aid, as by that of the highest monarch. In the simplest term- Law is the highest in itself and even the king of the country cannot go against the law which itself has been set up by them. By this very statement we have got a clear vision that even the weak one prevails; over the one who is strong when the law prevails over the. Law plays a significant role in the day to day life. Without law, the world would be a loose cannon. He will be powerful, reckless, and negligent in short he will be his boss fearing nothing. He will have no set of rules he will be free to do anything which ultimately creates chaos. Eg. (keeping in mind world without law) if a person kills a person there is no law for killing a person. He will do the same crime again and not only killing it includes all the crimes. If there were no set of legislation that states how a country should work, the world will be no longer a place to live in.

So to summarise this we can say -Law is the collection of rules imposed by the authority and is the backbone of every country. The basic fundamental of law is defined by the famous maxim- 'IGNORANCIA JURIS NON-EXECUSATE[2]' which means ignoring of law will never be an excuse and to know the consequence of ignoring the law there are different views by different law experts upon this. This maxim originated from Ancient Roman law and the bottom line is in those days, laws were quite simple and few which ultimately become easier for people to

[2] B&B associates LLP, 'maxim IGNORANCIA JURIS NON EXECUSATE advocates and legal consultants' (*BNB Legal*) <https://bnblegal.com/ignorantia-juris-non-excusat/> accessed 26 September 2022

remember and even can count them. It will be well explained in the case- of Motilal Padampat mills ltd vs the State of UP[3], but coming to the present scenario we observe there is a zillion of laws be they customary or personal law which are interpreted and amended every year by the parliament that is one on the other way the framework of the executive, the government, supreme courts, and high courts. The laws and procedures are so many that even the government finds it difficult to remember or even doesn't know many of them. We as a lawyer also have to keep a record and be up to date with the latest laws and it is even allowed to refer to bare Acts during proceedings or when preparing for cases because of the numerous/useless laws in India, we are unable to recall them most of the time. So it is quite evident the people of our country are not a superhero to know all the laws. Here the main crux is that as a citizen, shouldn't it be our duty to know even the basic laws at the same time another question will pop up in my mind how much of the laws should we remember or just think it wouldn't be difficult to just remember all the laws. In support of the above statement, the laws in India are so vast and confusing that we and even the people who enforce it don't bother to follow most of the rules and forget our basic laws such as fundamental rights and duties which I suggest most of all should know as a citizen.

HAS THE JUDICIARY FAILED OUR CONSTITUTION?

The Judiciary system in India is highly complex. It is mainly divided into three categories-the Supreme Court, the high court, and the district courts (followed by a hierarchy of lower courts). It is often seen lots of cases are pending before courts, the proceedings of one case go on for years and it takes years sometimes for the verdict to be delivered and if it is not in favour of the person appealing, he takes that case to a higher authority like e.g. if the case is going on in district court in that case, he can appeal to the high court. In this way, the cases go on and on. To add to this problem judiciary infrastructure lags behind the technology advancement. They maintain outdated methods of record keeping and technology remains a proposed thing. The execution of justice is not being supported by these numerous and complex law books because of the end

[3] *Moti Lal Padampat v State of UP* (1979) 118 ITR 326 (SC)

numbers of laws, they indirectly overlap on the necessary ones and are even mistreated at times. It won't be stressed enough to say the judiciary system is high time taking.

The need for the Supreme Court & Constitution - India, as we all know, is a federal structure which means the power has been vested at two points and sometimes these powers overlap even though they have been separately de-marketed under different lists of the constitution. There is generally a reasonable likelihood or probability that these powers would collide and a legal fight or a constitutional question would likely arise. So to avoid these unreasonable consequences there is an urge for an independent empire that would be neutral and would remind its powers and limitation from time to time. Since Supreme Court is the highest court, it has a mandate under the constitution to decide these questions. Same as this constitution has also provided for the separation of powers, we needed a body for the interpretation of these separate bodies but also to look upon whether these laws are within the vires of the constitution so once and for all Supreme Court was set up as watching tower above all the big structures. This has been properly defined in the landmark case of Union of India v Sankalp Chandra.[4]

Justice delayed is justice denied - It is often heard that power comes with great responsibilities. Judiciary being the third pillar and most important part of democracy somehow failed in observing the need of coping with the crime rate which is increasing day by day. It is a widely accepted maxim that excess of anything is very bad. We have come a long way in tolerating useless laws. The need for important and necessary laws has become more vigilant in today's scenario. Many loopholes in the law made it weak. In support of the above remark of our failed justice, it can be explained by taking an example from the famous maxim - Justice delayed is justice denied - famously quoted by William E. Gladstone. Again it was said by the Chief Justice of Madras High Court-'Justice delayed is equivalent to justice denied' raising the issue of delayed justice which was printed by 'The Hindu Journal on 3, June 2022. Another example of justice delay we can take in the present case is the Nirbhaya Rape Case where the 4 convicts got punishment in 2019 when the rape took place in 2012 only. There were 5 victims 5 one of them was a juvenile so he was stroked out from the conviction. In support of this, I would like to give

[4] *Sankalp Chandra Himmat Lal Seth v Union of India* 1977 AIR 2328

a hypothetical example where a crime is committed by a person say he is a child and does not know the intensity or the **men's rea** [5]behind that crime, he will consider a juvenile but if a child knows what he is doing is a crime would that come under juvenile or would he not be punished according with the penal code but as we can see there is no such law specifically for that. The laws are moreover twisted and turned in such a way that it is more confusing and the main crux always lags behind and necessarily the necessity of basic laws is called off in between these loopholes.

CONCLUSION

The laws and rules play a vital role in the proper functioning of the country and in avoiding crime rates. In my opinion, an ideal social and cultured state/ country would be when the country should be free of crimes and governed with equality but it surely would take a few more years to have that or in my personal belief, it won't happen in India because of the compound nature of the laws and set of rules interpreted by our parliamentary system. another basic demerit that will make hindrance for people to understand the perplexity of law is of the population we carry and when we talk about the population that comes with illiteracy rate and vulnerable groups. Based on the above set of examples and observations, I have concluded that the simple way of dealing with this type of situation, especially in those countries where laws are vast like our India is very important to make changes in our rule book and instead of a complex as well as multiplex judicial system, we should have at least easier way to reach out for help for or when there is a possibility of a quick judgement there should be more of the speedy trials. There should be easy laws or say fewer laws so that it wouldn't be difficult for people to remember. There should be specific provisions and laws that should be interpreted in a way that covers the basic concept of the needs of the trials keeping in mind the vast laws and accordingly punishment should be stringent against the wrongdoer. The basis of this is to make people believe in the law and its importance of it and didn't lose faith in the judiciary because of the numerous laws stated. The second most important remedy for this is we should encourage the basic set of rules like fundamental rights and duties which is to be taught in schools and

[5] Indian Penal Code 1860

campaign should also be organised so that the knowledge and awareness can be spread across general people about their basic laws and rights.