

## **Rule of law – A Prerequisite for Prosperity**

The recent debate on POTO [Prevention of Terrorism Ordinance, 2001] helped draw our attention to the failure of rule of law. Although the Supreme Court in Jayalalitha case held that rule of law is supreme, in reality our incapacity to enforce rule of law has done immense damage to our polity and has become an impediment to economic growth. Right to property, sanctity of contracts, mechanisms for peaceful resolution of disputes, public order, and a system of fair and equitable laws well-enforced are the prerequisites of economic growth. We clearly need strong measures to promote peace and order. Yet draconian solutions are likely to lead to greater abuse of authority and police excesses.

Failure of public order has reached such proportions that we can no longer maintain peace and enforce order through normal laws. Mafias are pretty much in control of our lives and businesses in many cities and towns. It is no longer uncommon for a businessman to be abducted at the orders of a don in Karachi or Dubai, and ransom being paid in London. Recently, a relation of a Union minister is reported to have been released by some extremists only after ransom was paid by the family. Parents, businessmen, artistes, film producers, and celebrities are increasingly worried about the prospect of a ransom demand on their mobile phone.

Land encroachment often forces owners to pay off the encroachers or sell it dirt cheap. Many such land grabbers have close links with politicians and policemen, and the hapless citizen has no realistic legal recourse. Often owners are compelled to go to the same politicians, policemen or mafioso for redressal. Rough and ready justice provided by hoodlums is the only method of settlement of disputes. Violence is the arbiter of justice.

Properties are often held without a valid title. The state machinery registers sale deeds without even a cursory verification. As property titles are not properly established, banks are demanding huge collateral for legitimate enterprises. Big projects running to hundreds of crores get credit with

political patronage or the backing of a big business house. But legitimate small and medium enterprises are cash-starved, and credit is unavailable.

Policemen and tax officials deal with businesses with unspeakable rudeness and extort bribes with unflinching regularity. Entrepreneurial energy which ought to be deployed for running businesses is wasted on trivia. It becomes cheaper to pay the bribe than argue or resist.

Entrepreneurs have no recourse to law courts or appellate authorities. With over 25 million cases pending in courts, most litigants would be lucky to get a verdict during their lifetime! If a verdict is indeed delivered, 'the loser laments in public, and the winner goes back home and sheds tears of agony in private'. Even if the verdict is in one's favour, executing the decree is another painful, excruciating operation!

For quite some time economists held that in the long term India had a comparative advantage over China on account of established legal procedures and rule of law. But with the failure of civil and criminal justice system, this advantage has largely evaporated. Most people are scared to risk investing in an enterprise. Scams in capital market, failure of a few urban banks and real risk of failure of even commercial banks are driving money to real estate and gold. We have a lot of money in the economy, but genuine enterprises are starved of resources. It is a classic illustration of "water, water everywhere; but not a drop to drink"!

There are practical and sensible answers to our difficulties. Germany, with a population of 80 million, has 30,000 judges. India, with its billion population, has only 15000! In an average district some 20,000 criminal cases are pending. Police receive about 20,000 new complaints each year, and do not even bother to register them all. About 10,000 new cases are charged every year and only about 5,000 are disposed of, adding to the backlog. In their anxiety to dispose of more cases, courts post 15-20 cases a day, and all accused and witnesses are summoned. Police are mostly busy serving summons and producing the accused and witnesses, which leaves them little time for crime investigation! We have thus a classic vicious cycle in operation. The case load and delays in civil cases are infinitely worse.

If we increase the trial courts' judge strength by four times, all it costs is about Rs.200 crores per annum in each major State, which is about two days' public expenditure! And yet this vital task of governance is left unaddressed. There are many such simple steps, which will promote rule of law and accelerate economic growth. Parties and governments would do well to focus on rule of law and justice. Our justice system could soon grind our economy to a halt.

***Jayaprakash Narayan***

*(The author, a former Civil Servant, is now a Campaign Coordinator of Lok Satta movement.*

*Email: [loksatta@satyam.net.in](mailto:loksatta@satyam.net.in) website: [loksatta.org](http://loksatta.org))*