

May please peruse the notes above from para 30/n onwards. It is regarding reconsideration of the proposal to enhance the quantum of punishment under the provision of Andaman & Nicobar Islands (Protection of Aboriginal Tribes) Regulation 1956.

The Govt. of India vide their letter at page 64/C have requested UT Administration to reconsider and justify the enhancement of the punishment of imprisonment of minimum of one year extendable up to 3 years. They have asked for a justification on the following grounds:

1. No imprisonment has been awarded for a period of one year or above during past 10 years.
2. The imprisonment of minimum one year extendable up to 3 years is normally awarded in law aimed at removing social evils.

The existing Regulation 1956 prescribes imprisonment up to one year. As such, the question of awarding imprisonment of more than one year would not arise. Further more it is the judgment of the Court to award the quantum of punishment within the bounds of the law. The contravention of the provisions of the Regulation meant for the protection of the aboriginal tribe would qualify to be termed as "*Social Evils*".

The pre-dominant features of social evils is the exploitation of the weaker section/person of society by the stronger one. The so called civilized society /civilized persons are in a stronger position and capable of exploitation of the aboriginal tribes particularly primitive tribal groups. So exploitation of the aboriginals which contravenes the existing Regulation can be considered as a social evil. Thus, it justifies for the higher quantum of punishment.

There are various theories about the implications / utilities of a law. For example the law which intends to be "reformatory" can be different from one which intends to provide deterrent provisions so that aberration / contravention of the provisions of the law are not repeated/ emulated by others in the society.