

From the Kitchen

7 January 2016



Living in a democracy, we spend a lot of time considering the merits of the people who want us to vote them into positions of government. And then we spend a lot of time discussing and arguing about and contemplating whether we used our vote correctly, or voicing our disappointment at the shortcomings of the present incumbents.

In all this, we are looking at the wrong thing. No matter what programs and plans and visions those in government (or those aspiring to government) may have, they are limited by the implementocracy: the bureaucrats, chiefs-of-staff, public servants, personal assistants and sycophants. The police, court functionaries and judges are also part of this layer of society.

Anyone who has had to deal with the implementocracy is likely to have experienced that the expression of laws and regulations in the real world is often at odds with those laws and regulations as expressed in words, in print. The words are interpreted, misinterpreted and even misread. A functionary who is charged with administering the will of a government may do so with good will or choose to be as obstructive as possible.

The written law may set out what is permitted or is prescribed, or is proscribed. Rules may then be promulgated for the administration of the law and the rules may partially or totally circumvent the intentions of the law-makers. If this is not enough to bring uncertainty to the administration of the law, the rules themselves are then interpreted by the implementocrats. A law may also be challenged in the courts, as may the rules set up for the law's administration. Judges thus become part of the implementocracy, as they can allow or disallow a law, or place interpretive restrictions on its implementation; similarly, they can affect the related rules.

The police develop official and unofficial attitudes to laws they are sworn to enforce. They may decide to turn their resources to the enforcement of one law and turn a blind eye to breaches of another. This may be purely a matter of available resources or may be because they are out of sympathy with a law. A law may be more zealously applied against a particular group.

In some cases, the implementation of the law may be partly in the hands of an advisory committee which, in the case of, say, environmental protection, may be 'stacked' in favour of 'advisors' from polluting industries. Forestry management may be moved from the responsibility of the minister for the environment to that of the minister for agriculture, which will mean a very different interpretation and implementation of any relevant laws.

I have several times appeared before tribunals dealing with the behaviour of doctors, and witnessed a blatant (stated) prejudice against certain types of medical practice. The members of the tribunal were supposedly implementing the law aimed at identifying doctors making unsubstantiable claims against Medicare. What they were in effect doing was identifying doctors who were using highly effective treatments that were not well understood by more orthodox doctors and punishing them for it. The 'innovative' doctors were, in fact, saving

Medicare a great deal of money, which was the intention of the law that was being misapplied in these cases.

When working in London, the government-controlled office I worked in needed government-issued stationery. For this we had to use an order form. We had run out of order forms. To obtain more order forms, we needed an order form ... There were rules to ensure the orderly handling of the provision of stationery. Order forms make sense. What doesn't make sense is placing the provision of order forms in the same class as all the stationery. To obtain a pad of order forms I had to resort to sleight of hand.

Can representational government in a democracy be improved so that the intentions of the law makers (and presumably the intentions of the voters) be implemented? Is a system feasible – even possible – in which the vast implementocracy faithfully gives effect to those intentions?