
LAW AS AN INSTRUMENT OF SOCIAL CHANGE AND SOCIAL CONTROL

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ABSTRACT

This study works to tries to comprehend the numerous types of alliances that contribute to sociality's development and social control. The abstract's objective is to demonstrate how law instrument theorists have been obsessed with attempts to explain the relationship between social transformation and social control within the framework of legal institution development. The interconnectedness of the law with other social systems is highlighted by the fundamental independence, dependency, and changing cause-and-effect nature of both legal instruments. Social change, in its most literal meaning, refers to the fact that a vast number of individuals are interacting in ways that are different from how they or their parents did earlier. Social transformation thus entails adjustments to the way individuals work. The pursuit of one's ultimate purpose in life, family upbringing, education, and government are the most important formal methods of social control. Early societies depended on informal means of social control, but as civilizations grew larger and more sophisticated, they were compelled to establish laws and norms that specified what behaviour was acceptable and what the repercussions were for breaking them.

I. INTRODUCTION

Law can serve as both a tool for social transformation and social control, depending on how it is implemented and enforced in the broader world perspective. As an instrument which must be taken into consideration for dawning social and consequently societal change, law can be used to promote and protect the rights of marginalized groups, such as women, minorities, and LGBTQ+ individuals. For example, the Civil Rights Act of 1964 a ground breaking statute that forbade racial discrimination was passed in the United States also with regard to colour, religion, sex, or national origin and hence led to inclusion of various segments of the society on the social fabric. This law helped to bring about significant social

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change by dismantling legal segregation and paving the way for greater equality for all Americans. Similarly, laws that promote environmental protection, worker safety, and public health can also serve as instruments of social change. These laws aim to protect vulnerable populations and promote social justice by holding powerful actors accountable for their actions. On the other hand, law can also be used as an instrument of social control. Laws that criminalize certain behaviours, such as drug use or sex work, are often used to control and punish marginalized communities, particularly those living in poverty. These laws can lead to the criminalization of poverty and create a cycle of incarceration and recidivism that perpetuates social inequality. In summary, law can be used to promote social change and protect vulnerable populations, but it can also be used to control and punish marginalized communities. The impact of law on society depends on how it is implemented and enforced, and whether it serves the interests of those in power or the marginalized communities it is intended to protect.

Social control and social transformation are two sides of the same coin. Only when other people are present in the human sphere can one complete a task. In actuality, the rule of law contributes to the order and functionality of the human realm. It establishes equality, justice, peace, and order. With the presence of law in society, even the most vulnerable groups of people feel stronger. Laws are passed to create a sense of social cohesion based on sensible and reasonable social standards and ideals. All legal requirements respect minority residents in a community and are founded on prevailing social norms. Regarding law and society, both social control and social change are relevant. Nonetheless, even though it depends on society and multiple disciplines for its quick revival in statutory provisions.

Law is hence interdisciplinary and multidisciplinary by nature, reflecting sociology of law as a component of law, society, and study. Controlling white collar crime has become one of several concerns under multilateralism framework. The idea of structural functionalism has recently gained popularity and emphasises the interconnectedness between societal structure and functions. Structures are social units and elements that serve distinct purposes to create a coherent society that is peaceful and organic.¹

¹ *Law as an instrument of social change* - ressearchgate (no date). Available at: https://www.researchgate.net/publication/304188947_Law_as_an_Instrument_of_Social_Change (Accessed: April 4, 2023).

Due to social change, many individuals now participate in relationships and group activities that are distinct from those they or their parents once did. Hence, social transformation include adjustments to how people work, raise families, educate themselves, govern themselves, and look for the purpose of life. Technology, ideology, rivalry, rivalry, political and economic concerns, structural pressures, and law—the most major formal instrument for social control—are a few more processes of change in addition to legal and social change. Early societies depended on informal group control techniques, but as societies grew larger and more sophisticated, they were compelled to establish rules and regulations that specified the appropriate behaviours. The scholars who study jurisprudence substantially improve the subjects of other humanities, such as the fields of politics and social studies. This contributes to society's overall progress. It aids in the simplification of various concepts and legal complexities. They become easier to manage and understand as a result since they are more reasonable. This may also result in more fruitful legal practise. Jurisprudence is sometimes referred to as the language of the law. A lawyer will benefit from understanding the underlying ideas and logic of the written law. It supports management and enables people to understand the fundamentals of the law more thoroughly and clearly.

i. RESEARCH PROPOSITIONS

1. Law is a tool for social change that is the result of culture and tradition, according to research. Review and assessment considering colonialism and the adoption of common law. India's system and institutions, as well as their effects on the country's future legal system and growth.
2. The outcome of rule and regulation, law is a tool of social control. Critique and evaluation in the context of social control and the adoption of the common law system, which have an influence on the ongoing advancement of the law and legal institutions in India.

ii. RESEARCH PROBLEM

Law is defined as the norms and guidelines that must be adhered to in order for individuals to live in society in peace, whereas social change is a modification that may have positive or negative effects on society. It is addressed in further detail how the law affects social development or control. To enforce the laws in society, the law uses a

number of different means. It focuses on how the law has been applied and the responses to or impacts that have occurred in society as a result.

In general, they question if each law that has been passed has solely had positive effects and whether national security has been a top priority for legislation. To put it another way, has the law—which is viewed as an instrument for social change and control—led to the growth of society?

iii. PURPOSE

1. Recognizing the significance of law as a tool for social transformation and as a law of control.

2. We shall learn that legislation is the result of traditions and customs that result in social transformation.

And we are mindful of the results of rule and regulation in social control.

3. The establishment of the common law regime and institutions in India, as well as their effects on the country's continued legal and institutional growth, will be examined.

iv. HYPOTHESIS

So, it is true that law plays a significant function in society as a weapon or mechanism for social transformation and governance.

v. REVIEW OF THE LITERATURE

1. Richard Gaskins, "Second Thoughts on Law as a Tool for Social Change" Springer, on behalf of the American Psychology-Law Society, published.

A considerable paradigm shift has taken place in the function of the legal system in our society, according to the contributions to this paper's broad and thought-provoking section on the subject. The structure and implementation of many state services, including as those for the mentally ill and the handicapped, prison populations, recipients of public assistance, abused children, judged incompetents, and other dependent people, are now heavily influenced by the courts. One could wonder if this is just a passing trend or outlandish incident in our legal society. According to the author who wrote the article above, it is obvious that the tendency has been around long enough to need rigorous documentation and research. Also, this is a great opportunity to evaluate the legal system more broadly and consider

how it may aid in the eradication of social issues. While social issues prevail as being part of a justice system, but the intrusion of law portrays its segment.

2. A Woman of Courage Goes to Court: Tort Law as a Tool of Social Transformation under Multiculturalism by Yifat Bitton and Ella Glass Berghahn Books published the book.

Can non-liberal cultures use liberal legal mechanisms to resolve their internal conflicts? Are various legal avenues for fighting for human rights helpful in enabling such usage?

This article uses the Israeli test case of the "Immanuel incident" to try to provide answers to these concerns. In this instance, a portion of the hyper population turned to the secular judicial system to seek redress for the educational inequality it had experienced at the hands of members of its own group. The plaintiffs were bound to experience the classic ideological conflict sparked by forcing liberal principles on a non-liberal group, even though doing so was in the group's best interests because they were members of a non-liberal community. It comes to the conclusion that when a matter is decided as a civil tort claim rather than being decided within the context of constitutional law, non-liberal groups' ethical "cosmologies" are viewed as being less constrained.

3. Education and Social Change: A Conceptual Framework, by R. Kamat Economic and Political Weekly is the publisher.

The many schools of thought about the connection between education and social development are examined in this article. It disqualifies the idealistic interpretation of this link. Nevertheless, it highlights how, even while the educational system is not the primary force behind social change, education may sometimes help to awaken a new social consciousness among people and groups that may be the forerunners of change. The historical experience of India under the British Empire up to the present is used to demonstrate the idea.

vi. RESEARCH METHODOLOGY

The present study used a secondary technique to get the necessary data. This study will be analytically and critically grounded. Articles, books, and journals are also included in the study report.

Data Sets

1. A legal text
2. Internet publications.

II. CHAPTERIZATIONS AND PARTS OF THE MAIN TEXT

Law society theorists have been interested in many years with attempts to explain how the evolution of legal institutions relates to social change. Considering law as a variable, independent, and dependent cause and consequence of society this highlighted how interconnected the law is to other social systems.

Social transformation thus entails adjustments to the way individuals work. raise a family, impart knowledge to their children, rule over them, and look for the greatest purpose in life. There are several more processes of change besides legal and social change, including technology.

III. LOOKING FORWARD TO LAW AS A TOOL FOR SOCIAL TRANSFORMATION

The wants and desires of society are reflected in the law. It is believed that if you wish to understand any culture, you must first understand the laws it has passed. By doing this, you may determine if the society is advanced or undeveloped There are really two ways to express this characteristic. The first is "Law transforming the society," which refers to the requirement that society change in accordance with the law of the nation. The second point is that "society alters the law" to suit its demands. Thus, here comes the part of social stratum that exists within the legal framework and it's differentiating roles.

We must use historical examples from India to support this. It was initially viewed as a taboo when Savitribai Phule, the wife of Mahatma Phule, began working as a teacher at a school exclusively for females; it was thought to be a bad idea that would have an impact on society and would destroy the sociological hemisphere of the society would destroy the societal fabric. But over time, this movement gave rise to laws that allowed girls to pursue education and growth. Eventually, the then-existing society unwillingly accepted this reality and began allowing females to attend school; this is an indication that the society is beginning to advance positively. Finally, the females were admitted to colleges as well. Finally, there were some seats available for female students to study at the Aligarh Muslim College, proving that this was not just a problem in Hindu culture. But the couple did not

ignite the lamp. This is how society "changes the law," but only when it serves its needs or expectations. The law, however, also has a significant impact on society since it creates opportunities for females to learn and grow while also advancing society.

According to Hertzler, "Law effectively shapes the power (Super-ordinate Subordinate) relationship in society; it upholds the status quo and incites conflict between the various strata, both in governmental and nongovernmental organisations and relationships."

"Law is an absolute measure of value handed down by the power of politically organised society," quoted Roscoe Pound.

According to Anthony Giddens, "Government agencies define and enforce laws as norms."

As a result, long-standing standards of interhuman connections and behaviour were modified through legal procedures, namely the Indian Constitution. Equal legislation, such as the I.P.C. (Indian Penal Code). The Evidence Act, and, finally, the Untouchability (Offenses) Act of 1955, the Protection of Civil Rights Act of 1955 (Amended with a New Name in 1976), and the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act of 1989. Bentham predicted that as Europe began to diversify the economy and grow more urbanised, legal reforms would quickly adapt to the new social conditions and restructure society. Law's binding nature is due to the fact that most members of society view it as such. Some people believe that the law's requirements for compliance should be viewed as a compelling responsibility. The recognition that the law obtains from those to whom it is meant to apply, or from the majority of them, is what gives it its claim to obedience and at least some of its morally obligatory force. Even when laws go against prevailing morals, they are frequently upheld.

Under the pretext of upholding the law, hundreds of individuals participated in the killing of more than six million Jews in Nazi Germany, obviously the most severe example of repugnant immoral deeds. According to Milgram, the core of obedience is when people start to consider themselves as just tools for carrying out other people's requests and stop holding themselves personally accountable for their deeds. That clearly illustrates the idea that most people voluntarily submit to authority and, by extension, the law. Under certain circumstances, many people will violate their own moral standards and cause harm to other people. Thus, the basic purpose of upholding the supremacy of morality and its standards on legal framework was served in this manner.

IV. THE LAW AS THE OUTCOME OF CULTURE AND TRADITION

Some people think that earlier times were the height of man's development when mankind lived in an unbroken state of happiness. The "Satyuga" is revered by Indians beyond all else, and they are frequently heard bemoaning the "Kaliyuga," a less ideal period that is rife with lies, hubris, deception, and fraud. Indian mythology holds that mankind has lived through four ages: Kali Yug, Sat Yug, Treta Yug, and Dwapar Yug. Mankind was at its most sincere, true, and content during the Sat Yug. Degeneration and degradation then started to happen. The Kaliyuga era of today is considered to be the worst time in human history where the man was characterized by deceitful and treacherous behaviour and conduct practiced within his own life.

This theory predicts the end of the Kali Yug and the beginning of the Sat Yug again in Hindu mythology. However, if we examine all of the wars fought between different emperors and kings in those days, we find a lot of examples where, even from today's perspective, treachery, falsity, dishonesty, selfishness, and other vices were the standard and there was no regulatory structure to keep a check on the behaviour.²

V. LEGAL CRITICISM AND ASSESSMENT IN THE CONTEXT OF COLONIALISM

Several strategies can be used to influence society. Religion may be preached, and social reform movements like those started by Raja Ram Mohan Roy, Swami Dayanand Saraswati, Judge Ranade, Shahu Maharaj, Jyotiba Phule, Gandhi ji, Dr. B.R. Ambedkar, and other well-known social reformers can also bring about societal transformation. Yet when people disagree with a set of societal norms and behaviours, such attempts are not subject to any legal responsibilities or sanctioning actions. Such entirely voluntary, sweet will subservience of the law and established authority was discovered to not be producing the desired results in the right direction, and so the need arose to create laws that were solely intended to bring about social change by prescribing and providing necessary punitive mechanisms in case of failing to agree to change and breaking the provisions of such laws that were intended to social change from existing social processes as procedures and practises.

² Chapter 7: Law and social change - auknotes (no date) Google Sites: Sign-in. Available at: <https://sites.google.com/a/g.rit.edu/auknotes/law-and-society/chapter-7-law-and-social-change> (Accessed: April 4, 2023).

An intriguing scenario of societal transformation that occurred through time and would be of utmost relevance from this study's point of view may be obtained by quickly reviewing the history of Dalits, Harijans, and Shudras as they were alternately referred to or treated with contempt by fellow Indians. In India, there is a Scheduled Caste for every seventh person. The Scheduled Caste has experienced discrimination since the post-Vedic era. Affirmative action, protective discrimination, and positive discrimination are so necessary. From birth to death, Brahmins had complete authority over every element of Hindu everyday life. He had to ask the priest about auspicious days if he wished to go. If he made the decision to get married, establish a company, or live on his own, there would be further constraints on the rule. Dr. Ambedkar always advocated for the advancement of the socially marginalised in our society. In his opinion, there is no difference between Hindus and primitive or ancient Humans when it comes to pollution. He read Hindu texts and opposed to any disparaging words about untouchables and Shudras that he came across. He was a fierce opponent of Manu smriti, which imposed several degrading conditions on Shudras in nearly every aspect of daily life. The roots of the untouchability curse are too deep to be quickly removed. The harmed people were merely ostracised by the non-Hindu community. They weren't kept apart in different areas. Hindu society is adamant about keeping Untouchables apart. In a basic instance Ambedkar and his men allegedly intended to infiltrate the Veerashwar temple, according to a brazen rumour that circulated. Unarmed men were assaulted by the fanatical caste Hindus. Women and children were brutally assaulted. Notwithstanding all of this beating and humiliation, assaults on breakaway groups of the delegates returning to their towns occurred after the commando raid on the "Pandal." Ambedkar counselled restraint and against retaliation to his followers. The epic fight of the untouchability victims' first phase was thus concluded. Soon after, word spread that the traditional Hindus had performed a tank cleaning ritual that they believed had been tainted by Ambedkar and his followers. This portrays the role and feature of caste and class and its segregation in the social milieu.

VI. USING THE LAW TO GOVERN SOCIETY

Law is the main formal instrument for governing society. Early communities depended on informal ways to regulate themselves, but as societies grew and became more sophisticated, they were compelled to establish laws and norms that outlined the appropriate patterns of behaviour and the penalties that would be meted out to those who violated them. Relationships are not as important as they once were. The codification of norms is necessary

for the interactions to be organised and for the protection of people and the property. Law creates uniform standards and penalties for all members of a social organisation. What was once accepted as mores and traditions has now been codified as a body of legislation. A person who engages in untouchability is subject to penalty under the untouchability legislation, which forbids untouchability in all its forms. The Prohibition Act makes it illegal to drink in public. In this sense, the rule of law has a significant impact on how individuals behave in contemporary communities.

A society's members should adhere to certain behavioural norms, which are referred to as social control. Several of the norms of behaviour are considered excellent manners according to the culture. As a result, they characterise actions that are socially acceptable but not necessarily required. Laws are used to enact and enforce additional codes of behaviour. Laws are typically formalised in writing in complicated, large-scale communities so that everyone may understand them. The laws of small-scale communities, such as those of foragers, pastoralists, and horticulturists, are not like this. Often, their laws are significantly less formal and seldom ever codified. There is no need to explain them to anyone because they are a part of the living oral heritage that is well known to people from these civilizations. Nonetheless, until there is a conflict, visitors from other civilizations are unlikely to be aware of the regulations.

VII. LAW: A SUMMARY OF SOCIETAL REGULATION

When it is practical, law is a system of regulations and laws that are imposed through social institutions to control behaviour. In addition to mediating individual connections, it has a range of effects on politics, the economy, and society. Contract law applies to everything, even buying a bus pass and investing on derivatives markets. Property law establishes the rights and obligations associated with the transfer and ownership of both real and personal property. In contrast to trust law, which relates to assets retained for commercial and financial protection, tort law allows compensation claims whenever a person's rights or property are infringed. If the harm is deemed illegal by law, criminal law gives the state a way to hold the offender accountable. Constitutional law controls the making of legislation, the protection of human rights, as well as the election of government officials. While regulation is used to examine judgments made by government agencies, international law governs relations between sovereign governments in a variety of contexts, including trade, environmental protection, and military action. In a text dated 350 BC, the Greek philosopher

Aristotle asserted, "The law as it is better than the law of any man." According to John Austin's utilitarian response, "instructions from a master, toward whom people have a practice of obedience, supported by Means of Social Control through Legal threat of punishments" are what constitute law. The term "law" is a generic one that through time has come to mean many things to signify different goals. People with various professions prefer to categorise law according to the goal that the established collection of rules is meant to accomplish: -

1. A citizen might view the law as a collection of regulations that he must follow.
2. A lawyer may view practising law as a passion.
3. A legislator may examine a piece of legislation that he drafted.
4. A judge views the law as a set of principles and a guide that should be used when making judgements.
5. Law may be viewed by a social scientist as a tool for societal control.
6. A legal philosophy may view the law as the product of "right reasoning" or as a moral imperative. To give it a more specific definition, it is frequently followed by an adjective, such as Commercial/Mercantile law, Civil law, criminal law, Industrial law, or International law. The meaning of law in the legal sense that we are concerned with in our study of Economic Laws includes all the regulations and guidelines that govern our interactions with other people and the State and that the State upholds.³

VIII. LAW AS THE PRODUCT OF RULE AND ORDER

In every culture, crimes and disagreements are rarely straightforward issues. Statutes may be subject to interpretation, and opinions on the facts are frequently divergent. Also, when guilt is proven, there may be disagreements on the proper sentence or terms of a settlement. This concept is typically the foundation of jury systems in the world. It is assumed that the jury will reach a decision that a "reasonable man" would find satisfactory. In most cultures in the past, a "reasonable man" was assumed to be a man. Children, women, and uneducated, unempowered adults were not regarded as reasonable. They were consequently barred from

³ *The rule of law and why it matters* (no date) *Facing History and Ourselves*. Available at: <https://www.facinghistory.org/resource-library/rule-law-and-why-it-matters> (Accessed: April 4, 2023).

servicing as jurors and justices. In some of the Middle Eastern and other areas' more traditional societies, this is still the case. Praise and the bestowal of accolades or awards are typical favourable sanctions. The good thing sanction does not have to provide an immediate reward to be successful. It might be a gift from the afterlife. One example is the Judeo-Christian and Islamic notion that obtaining entrance to heaven requires leading a morally upright existence. Similar promises of a future otherworldly reward are made by Hindu and Buddhist beliefs that leading a good life result in rebirth at a higher degree of existence. Every society has some standards that can typically be disregarded without concern of repercussions. Such insignificant departures from the accepted standards in the United States today include dressing oddly or being a loner. These actions may be associated with odd, eccentric, or independent people, but rarely with criminals. Depending on the deviant person, any of these alternative labels may be used. Gender and Gender race, age, wealth, and socioeconomic class are probably going to play a big role. Unusual conduct displayed by wealthy, well-dressed individuals is likely to be categorised as quirky, whereas the same behaviour displayed by homeless or underprivileged individuals is much more likely to be classified as criminal.⁴ This is especially the case if the offending people are strangers and belong to a group that has a negative perception of "troublemakers." A homeless woman's persistently unusual behaviour on the street is likely to prompt people to question her psychological health and look for help for her, whereas a homeless man's similar behaviour may be perceived as a possible risk to society and lead to his arrest for causing a public disturbance. Crimes are frequently perceived as family concerns in small-scale civilizations. Crimes are committed against people, not the community. The "crime" is erased, and everyone resumes their normal activities. If the agreed-upon sum of were held is not paid, the case hasn't been resolved, and the community expects the wronged party to exact retribution by murdering the individual who murdered his family member. Legal systems in the US. And other western countries distinguish between criminal offenses and crimes against specific people. Torts are the term for the latter. Instead of criminal cases, they are resolved in civil ones.

⁴ *Philosophy of law* (no date) *Encyclopædia Britannica*. Encyclopædia Britannica, inc. Available at: <https://www.britannica.com/topic/philosophy-of-law> (Accessed: April 4, 2023).

IX. CONCLUSION

Law is a broad rule of external activity that is applied to specific circumstances by the state's court and is enforced by a sovereign political power. The most specialised and well-equipped tool used by society for social control and transformation is the law. To regulate and influence people's conduct in society, the state enacts laws.

The government penalises those who violate or disobey these laws. The modification of the administrative authority granted to government personnel constitutes the control of the legislation. The executive is given the authority by law to penalise individuals who disobey the established social order and to reward those who behave morally and collaboratively.

By forbidding the common masses and populace from getting in the way of others and by defending those who follow the rules from those who do not, the law has a significant impact on how people behave and how people morally structure the society in its own fabric.