



LAW AS AN INSTRUMENT OF SOCIAL CHANGE

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ABSTRACT: Law is defined as the rules and regulations that must be followed for individuals to live peacefully in society, whereas social change is defined as any change in society that may have a positive or negative influence on society. The link between the law and social transformation is examined in depth. Law is an essential social regulatory system. It also causes incredible societal transformation. Unemployment, illiteracy, and unequal income distribution in our country acted as a spark for rising problems like crime and poverty. In such a case, the law may undoubtedly be used to effect social change. Landmark judgments and legislation that have been successfully executed guarantee that societal transformation becomes a reality.¹

The paper discusses how legislation may be used as a tool to effect social change in society. The paper begins with an introduction to the notion of law and the link between law and social change, as well as the significance of it in society. Furthermore, the study discusses some of the societal changes that have occurred as a result of the usage of law as an instrument. It is followed by some examples of how the law has been used to effect change in Indian society².

KEYWORDS : Social, Change, Law, Society, India

INTRODUCTION

This law can be documented or controlled by a series of rules that are used to simply manage society. Society will help to control social progress to ensure that it is necessary to maintain a balance of society, society and individuals. Society is a variety of classes, casts, creeds, colors, background veins with various places. Among these people, regardless of the identity, they are not to bring homogeneity, regardless of bringing homogeneity, and are performed according to uniform topics³. Social change is that everyone is expecting that all societies and his people are always welcome to always good changes. Laws play an important role in bringing about social change. In a lawless society, there is no harmony and serenity between people and society. Since society is made up of many different types of people, there is always the possibility that one group of people will be placed in a position of power and domination due to certain variables such as money, power, and prestige in order to control another group⁴. Relatively weak. This situation is sometimes not new in every culture that has experienced it. In addition to this, society is experiencing various difficulties. Some of the infamous are poverty, drug addiction, corruption, prostitution, rape, lynching, child marriage, acid attack, child labor, discrimination based on caste, race, color, sex, and more. Now is the time for society to use a law that: Laws exist effectively to successfully drive social change in the true sense of the word. Thus, the answer to the question of whether law can be used as an instrument of social change lies with society itself and its people.⁵

¹ [https://www.worldwidejournals.com/indian-journal-of-applied-research-\(IJAR\)/special_issues_pdf/December_2015_1453448341__45.pdf](https://www.worldwidejournals.com/indian-journal-of-applied-research-(IJAR)/special_issues_pdf/December_2015_1453448341__45.pdf)

² <https://acadpubl.eu/hub/2018-120-5/4/344.pdf>

³ <https://www.mbauniverse.com/group-discussion/topic/social-issues-group-discussion-topics/law-should-be-instrument-social-change>

⁴ https://shodhganga.inflibnet.ac.in/bitstream/10603/5133/7/07_chapter%201.pdf

⁵ Oishika Banerji, "How* can the law be used as an instrument for creating social change" Ipleaders

RESEARCH METHODOLOGY

The current study is based on secondary data sources such as journals, articles, publications published by private entities and organizations.⁶

REVIEW OF LITERATURE

The social order can significantly change as a result of law. If murderers and other wrongdoers receive harsh punishment, criminal activity will decrease. The supreme court's recent decision to defer the execution of two murderers and rapists in the Nirbhaya case constitutes a serious injustice. Such choices may have an effect on societal law and order. A message will be communicated to potential offenders that they can avoid punishment after committing horrible deeds if the judiciary does not sustain the sentences. The wellbeing of India's 1.2 billion people is the responsibility of legislators. Instead of doing wrong, they should carefully consider their options and use the legal system to effect societal change. Lawlessness has a tremendous negative impact on society. Unless appropriate regulations are in place, women and Poor individuals will still be taken advantage of and mistreated. To effect constructive social change, stronger laws are required. Reputable legal authorities like Justice Bhagwati have talked about how the law shouldn't fail to adapt to the demands of a developing society. He has implied that if it happens, it may stunt society's development and obstruct its advancement. Investors and funders will continue to have doubts about India ever being a superpower unless safety and security are ensured and laws are being established to create a stable economic and social environment. Positive social transformation is brought about through the legislation of the land. Law can affect the economy, whether it be anti-poverty legislation or a drive to encourage FDI in education. Availability of high-quality infrastructure and social welfare services to all citizens. Only when politicians are there to start real change in a constructive direction can a nation change for the better. The legal system is essential for addressing social concerns. Legal changes can put an end to social injustice and gender bias. Citizens have the right to file legal complaints when their fundamental human rights have been violated. Law is a tool that can be used to bring about social change. Only when a law is correctly applied can it be said to be effective. The legislation ought to be equipped with defenses against social ills like dowries and domestic violence. Sati and other social ills like child marriage have only decreased in India because there are regulations in place to stop them from happening. Well-known activists have also fought social injustice via public interest litigation.⁷

1. <https://www.ijsr.net/archive/v8i10/ART20201785.pdf>

In this research paper, the author writes about the importance of law as an instrument of social change, law as a product of tradition and culture, the introduction of common law systems and institutions in India, and its impact on the further development of law and Indian legal institutions.

2. [https://www.worldwidejournals.com/indian-journal-of-applied-research-\(IJAR\)/special_issues_pdf/December_2015_1453448341_45.pdf](https://www.worldwidejournals.com/indian-journal-of-applied-research-(IJAR)/special_issues_pdf/December_2015_1453448341_45.pdf)

In this research paper the author Interpretation of the word 'LAW', Mentions reasons attributed for social transformation, Foresight of framers of Indian constitution, Interaction between law and social transformation, Necessity of changing the law and elaborates various social problems.

3. <https://www.lawfinderlive.com/Articles-1/Article6.htm>

In this article the author states the Role of Legislation and Supreme Court of India, and extensively elaborates on Law and Social Change in India.

RESEARCH PROBLEM :

How do specific legal reforms and their enforcement impact social change and the realization of civil rights for marginalized communities in a specific region or a country?⁸

RESEARCH QUESTION :

1. How have changes in the anti-discrimination laws influenced social attitudes and behaviours towards marginalized communities in a specific region or a country?
2. How much has the enforcement of environmental protection laws influenced environmentally conscious behavior and public awareness in a particular region or country?
3. What effect do reforms in the criminal justice system have on recidivism rates and the promotion of rehabilitation?
4. How do gender dynamics and family structures in alter as a result of changes in family law, such as changes to marriage and divorce regulations?
5. What part do legal frameworks and agreements on human rights play in promoting gender equality and women's empowerment in
6. In what ways, specifically in a particular industry or sector, have labor laws and workers' rights legislation enhanced working conditions and income equality among employees?

RESEARCH OBJECTIVES :

The study in the research paper shows how laws address a particular social problem or issue, such as prejudice, inequality, or environmental deterioration, and how they affect social change.

To examine a particular law reform's implementation issues and enforcement methods, as well as how it affects societal attitudes and behaviors.

HYPOTHESIS:

Legal reforms' implementation and efficacy, particularly those in the [describe the legal field] domain, can have a big impact on social change in [the region/country] by [describe the desired goal, e.g., decreasing prejudice, fostering equality, or enhancing environmental sustainability]. The degree to which these social change goals are accomplished depends on a number of variables, including effective enforcement mechanisms, public awareness, stakeholder participation, and the adaptability of the legal system.

THE RELATIONSHIP BETWEEN LAW AND SOCIAL CHANGE

⁶ https://shodhganga.inflibnet.ac.in/bitstream/10603/5133/7/07_chapter%201.pdf

⁷ <https://www.careerride.com/view/law-can-be-an-instrument-of-social-change-12270.aspx>

⁸ <http://www.legalservicesindia.com/article/1592/Law-and-Social-Change-in-India.html>

The word social change is used in numerous fields such as economics, politics, law, and sociology. This states that social transformation is impacted by numerous domains to work out. The topic of law is the most crucial among the above because the law is a code that rules society. Law is the highest power in the hands of the governments to control what is proper and what is wrong in society. Law is not only there to offer the society a set of rules according to which a society should operate but also regulations which the society is obliged to implement in its own manner in order to provide welfare to the people living there. Traditionally, the standards that were followed by society to control itself in order to infuse the elements of uniformity, consistency, progress in society. The rules that were accepted by society assumed the form of the law. The members of society had to observe the rules in their daily existence and defiance of which would constitute to infraction either criminal or civil in character. A similar trend is being followed now as well. The only change that has been brought about is the adjustments in the current laws in order to remodel society for a better appearance. The link between law and society is thus ancient and needs nourishment and care in order to maintain it active and new. Several experts have thought that legislation is the finest tool for controlling social change but at times it is the social change that becomes a statute itself. Social change takes happen owing to the existence of numerous elements in the environment. These include the demographic structure, technical upliftment, change in the beliefs of the people in society, growth in the welfare of the people in society, and so on. The creators of the Constitution were clear with the idea that India after getting independence should not be subjected to the comparable type of humiliation in any manner as it has been for numerous years before 1947. The Indian Constitution may, thus, be one of the prominent instances to highlight how legislation can be utilized to bring about social change. Law is a highly dynamic topic, and that allows it to assume the form of its environment. A society may, therefore, profit from this topic in several numerous ways⁹

LAW AS AN INSTRUMENT OF SOCIAL CHANGE

The law is a reflection of society's will and desire. It is believed that if you wish to understand any civilization, you must first study the laws that society has established in order to determine if the culture is developed or wild. The law, although being a product of society, is accountable for social developments. It signifies that legislation is created by society in response to its needs via its democratic institution, i.e., Legislative, or by the adoption of custom and usage. When the law alters society, it marks the beginning of society's evolution. When a civilization modifies its laws, it demonstrates its maturity. Change in society may be launched by a single individual, as shown in India by Raja Ram Mohan Roy, Mahatma Phule, Mahatma Baseswar, and Mahatma Gandhi, all the way up to Anna Hazare! As a result, the demand takes root and rattles the government, forcing it to either improve current laws or create new ones, or perhaps repeal existing bad laws. For this, we will need to provide instances from India's past. When Mahatma Phule's wife, Savitribai Phule, began teaching at a school for females alone, it was deemed taboo, something bad that would impact society, but this movement eventually became the source of law where the girls could genuinely learn and grow. Gradually, the then-society unwillingly accepted this truth and began to send females to school; this is a good indicator of society's continuing to grow. Eventually, the females were admitted to colleges as well. This was not confined to the Hindu community; the Aligarh Muslim College also offered certain places for female students. The Phule couple, however, did not ignite the lamp. This is the 'Society alters the law,' but only when it has to, rather than when it wants to. Whereas the law also plays a vital role in transforming society.¹⁰

SOME OF THE SOCIETAL CHANGES THAT HAVE RESULTED FROM THE USE OF LAW AS AN INSTRUMENT ARE LISTED BELOW.¹¹

Public Interest Litigation

This framework that the Supreme Court provided to citizens in order to foster a divergent approach to law on the side of the people was public interest litigation. Public interest litigation is a tool that allows a person to represent a group of people to approach the court on the grounds that they have been harmed by something that must be avoided in order to avoid additional suffering. By providing individuals with public interest litigation, the Supreme Court has been able to narrow the scope of the locus standi, allowing any public-spirited person to seek the court without reluctance. This was a significant social reform brought about by the Indian court, demonstrating once again that legislation may be utilized as a tool to effect social change as and when it is necessary by society. On a handful of occasions, public interest litigation has had a significant influence on society. Among these is the case of MC. Mehta v. Union of India. In this public interest case, the Supreme Court was requested to provide people with a free and healthy environment in terms of water, air, and the surrounding environment, and it was determined that these demands were under the purview of Article 21 of the Constitution.

Fundamental Rights in the Indian Constitution

Fundamental rights are, in fact, a reflection of the law as a tool for guiding social development. Fundamental rights protected under Article 21 include the right to live freely, the right to free and mandatory education, the right to equality under Article 14, the right to freedom under Article 19, and a number of other rights that are necessary to make a difference in today's society. The basic rights are enforceable in a court of law, which means that citizens can approach the court if their fundamental rights are violated. Article 21A, the right to free and obligatory education, was added to the right to life in 2002. Society recognized the need to educate its youth in order to make them more informed of the social changes that were going place around them. It was conducted casesin such a way that schooling became a legal requirement for all kids up to the age of 14.

Section 377

Section 377 of the Indian Penal Code, 1860, which used to criminalize unnatural offenses, i.e. if intercourse occurs between two men or two women, the same will be proclaimed as an offense under this provision, has been repealed by the Supreme Court of India on the premises that homosexuality is no longer an offense in the eyes of the law. In the historic case of Navtej Singh Johar v. Union of India, the Supreme Court decriminalized all forms of consensual intercourse among adults, including gay sex. The Supreme Court's ruling ushered in a fundamental shift in Indian culture, customs, and beliefs. The majority of individuals, particularly the LGBTQ community, were pleased with the decision. In a

⁹ Id at 2

¹⁰ Law and social change, available at <https://www.nmu.ac.in/Portals/46/SLM/LLM.PAPER-1.pdf>

¹¹ How can the law be used as an instrument for creating social change available at: <https://blog.ipleaders.in/can-law-used-instrument-creating-social-change/>

sense, the Supreme Court re-established Article 21 by stating that every person has a right to life and personal liberty that should not be limited by cultural standards.

Child marriage

As the home of numerous religions, India has experienced a lot of traditions and customs that have been legislation for several years, even if the customs or traditions were not straight and fair. Child marriage was one of these unjust rituals that existed before the passage of the Child Marriage Restraint Act in 1929. This Act was revised again in 2006 and became known as the Prohibition of Child Marriage Act, 2006. Kid marriage is one-sided exploitation of the girl child. At a time when youngsters should be pursuing school, they marry in order to relieve parents and society of duties. The consequences for the youngster are serious. As society was in need of the same, legal force was required to eradicate this social issue from society. As a result, laws were enacted for the society to obey in order to effect social transformation.

Elimination of Child Labour

It is a serious crime to prevent a youngster from enjoying his youth. The Factories Act of 1881 was the first of its type, prohibiting the employment of children under the age of seven, and limiting working hours. Many laws were enacted, culminating in the Child Labour (Prohibition and Regulation) Act of 1986, which generalizes the age of a child to 14 years for the purpose of prohibiting child labor.

ISSUES IN WHICH THE LAW CAN BE USED FOR SOCIAL CHANGE¹²

Law, as a tool for bringing about social change, can be applied in two basic ways:

1. The rules that bring about social transformation.
2. Society is influencing a change in the legislation.

When someone states that laws are bringing about a shift in society, he or she implies that the law is causing the society to obey it in order to bring about a divergence or a change in the already existing environment. Untouchability, for example, has been a long-standing societal concern. Untouchability is forbidden under Article 17 of the Indian Constitution. As a result, the law brought about a societal shift by largely eliminating the social issue. If someone continues to practice untouchability, he or she will be charged with breaking the law. When society changes the law, it signifies that society is responding to the law in the way that it wishes.

Racial discrimination

Racial prejudice is one such societal issue that has plagued many regions of the world for many years. Racial discrimination is the growth of inequality between two groups of individuals based on their skin color or ethnic heritage. The globe still has a long way to go to eliminate racial prejudice. Racial prejudice fosters inequity in society, which is both unfair and unjust. Individuals have shown that the legislation has been effective in certain cases while failing to reach out to many in terms of racial discrimination. Several nations have passed anti-discrimination legislation in order to eliminate racial prejudice.

Climate change

Climate change is a new social concern that has recently been added to the list. Climate change is a social concern since it affects society in a variety of ways. Several great individuals have stated that handling climate change as a social issue would require greater public engagement in order for people to be aware of the consequences. Typhoons have already begun to strike various locations of the South Pacific as a result of climate change. Climate change is causing problems in many other places on the planet. Because of this problem, the earth's biodiversity is dwindling. Conventions, talks, and treaties are being implemented to keep this societal issue from spreading. The application of the law through treaties acts, and conventions demonstrates that legislation may be used to effect social change.

The exploitation of women and children

The abuse of women and children has long been a global socioeconomic concern. This is an example of a societal issue that adheres to the cycle idea. Women have always been subjected to oppression as a result of men asserting power over them. This has also resulted in an increase in crimes against women as compared to males. Children are commonly exploited in the form of child labor, child maltreatment, child marriage, and child trafficking. Several laws have been enacted to control these variables in order to bring about social change and to protect children's rights in order to provide them with an environment in which they may develop to become responsible members of the nation. The social challenges described above are considered as some of the major social problems that the world is now experiencing, and only through legislation can a change be brought about in society.

LANDMARK COURT CASES THAT BROUGHT SOCIAL CHANGE¹³

Mukesh & Anr v. State of NCT of Delhi & Ors (Popularly known as Nirbhaya case)

On December 16, 2016, the country was shocked by a horrible incident of gang rape and murder. Six guys battered and raped a 23-year-old woman on a bus before throwing her corpse on the road. Five of the six guys were adults, while one was a 17-year-old minor. When they were apprehended, the five adult males were sentenced to ten years in prison, and one of them was found dead in the prison itself during the process of a trial. The 17-year-old adolescent was sentenced to three years in a juvenile detention institution. However, the violent crimes in this instance had shocked individuals to their core.

Finally, the Delhi court sentenced the four defendants to death. The tragedy jolted the nation's consciousness and generated significant demonstrations, which resulted in the replacement of the Juvenile Justice Act 2000, which decreased the age threshold to be tried as an adult from 18 to 16 years. In reality, the Centre and the Delhi Government triggered several measures to safeguard women's safety, reduce similar incidences, and expedite case resolution.

Muhammad Ahmed Khan v. Shah Bano Begum

¹² Law as an instrument of social change available at: <https://aishwaryasandeep.com/2021/06/27/law-as-an-instrument-of-social-change/>

¹³ Landmark Court Cases that changed Indian Laws available at: <https://www.jagranjosh.com/general-knowledge/7-landmark-court-cases-that-changed-indian-laws-1480594633-1>

Shah Bano was a mother of five when her husband, Muhammad Ahmed Khan, divorced her in 1978 at the age of 62. She went to court to seek support from her divorced spouse. She wanted alimony, which is against Islamic law. Even the authorities ruled in her husband's favor. Keeping her health and age in account, the Supreme Court decided in favor of Shah Bano, upholding secularism and women's welfare by amending Section 125 of the Criminal Procedure Code. This decision granted maintenance from their husbands in the event of divorce for all Muslim wives.

K.M. Nanavati v. State of Maharashtra K.M Nanavati's life was flipped upside down when he was 34 years old. He was a navy officer and Sylvia's husband. He and his wife and children resided in Mumbai. In the absence of Nanavati, Sylvia began seeing his buddy Prem Ahuja and fell deeply in love. On April 27, 1959, Sylvia admits to her husband that she was in love with Ahuja & expresses her concern that Ahuja would refuse to marry her. Then Nanavati went to Prem Ahuja's residence to ask if he wanted to marry Sylvia and care for the children, but he declined. Nanavati was enraged and blasted three bullets into his torso, killing him. This was an open case that got a lot of media attention, and the jury judgment eventually went in favor of Nanavati. The Bombay High Court Judge overturned the jury's finding and convicted Nanavati guilty of murder & sentenced him to life in prison. He was released from prison three years later. The case demonstrated that an influenced jury panel may be harmful since it resulted in the abolition of the jury system.

Mary Roy vs State of Kerala

Mary Roy's husband died without making a will. She was Arundhati Roy's mother, and she chose to dispute the inheritance statute, which declared that her daughter would lose the right to property if she did not have a will. According to the Travancore Christian Succession Act of 1092, if a man dies without writing a will for his daughter, she is not entitled to anything. As a result, the property would pass to a son. Mary Roy battled for her daughter and used Article 14 by claiming that she had equal property rights. She also argued that all Syrian Christian women should be granted equal property rights. Finally, the Supreme Court found in favor, and the Indian Succession Act of 1925 was extended to include Christians in Cochin. In that instance, if the father dies intestate, the female child is entitled to a part equivalent to that of her brother.

Tuka Ram And Anr v. State of Maharashtra (popularly known as Mathura rape case)

In the year 1972, a juvenile tribal girl named Mathura was summoned to the police station late at night on March 26th. A police officer raped her and then let her go. Mathura chose to charge the police with rape. But did you know that the Supreme Court decided in favor of the cop? As previously said, there were no traces of struggle on Mathura's body, and she did not even yell or beg for help. However, the people overwhelmingly supported this case, and an amendment to the Criminal Law Act of 1983 was enacted as a result. According to this change, custodial rape is an offense that is penalized, and the process for dealing with consent is now incorporated in India's Rape Laws.

CONCLUSION

Social concerns are interwoven rather than isolated, and the law serves as a mirror to reveal how individuals identify with one another. The effective application of legislation as a social change tool or device should function in unison with the social & cultural life of the people of India. It is necessary to transform the social structure in line with the needs of the times and the people's modes and mores. A striking balance between the apparatus of law and folkways and people's mores would truly pave the path for true justice in action, leading to societal empowerment.

Coming to the end of the discussion on the law as an instrument of social change, it can be stated that law is already an instrument existing to bring about a social change and to be specific, it has brought about a lot of social changes, However, it still has a long way to go before it can bring major societal reform.

