



LAW FOLLOW SOCIAL CHANGE OR LEADS IT : A CONTROVERSY

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ABSTRACT :

Social change is defined as any action that affects the group or individuals within that group who share values or traits. The law adapts to societal changes and stays current to keep up with the times. Either ideology or revolution has caused a shift in the social order. It is believed that if people change, society will also change. The law has been actively applied to change people through punishment or the fear of penalty and reward. Laws are unnecessary if everyone in society is a gentleman; conversely, if everyone is a scoundrel, laws are also unnecessary. Law is the leader of society as well. Laws that prohibit sati, dowries, crimes against women and scheduled castes, and several welfare laws have been enacted; these laws are ineffective at first but eventually succeed in influencing society's preferences. The rationale is that while the law cannot take someone from the bottom up, it may be a powerful tool for guiding social change if it is combined with other social forces.

INTRODUCTION :

Social change is more than just occasional advancements. It refers to the systematic and well-balanced development of the fundamental institutions and framework that form the basis of society. A human civilization is not a fixed idea. Due to its makeup and numerous other elements, it is a reality that is constantly changing in practically every way. These shifts can occasionally be abrupt and disastrous, like revolutions, civil wars, coups, changes in philosophy and technology, etc., or they can be subtle, slow, and undetectable. Though history demonstrates that in certain nations, courts of law have refused to accept the realities of the time and did not accept the revolutionary regime as a replacement for a long time, the role of law is limited to accepting the social structure as it was altered by force. As Davis puts it, "Social change is that large no. of persons are engaging in activities that differ from those which their immediate fore-fathers were engaged in some time before."

According to Charles L. Harper, "Social change is significant alteration of social structure and cultural patterns through time."

Social change necessitates a shift in social organization. Nature, social behavior, social relationships, social organizations, and communities of people are all examples of social structure. In sociology, economics, politics, and history, the term "social change" is employed. Social work, political science, history, sociology, and anthropology all address the topic of social change. Revolution, protest, politics, communities, and direct action are some of the ways that social change is brought about. The components of social transformation can be divided into the following categories:-

1. Geographical or physical
2. The biological
3. Economic;
4. Cultural
5. Psychological
6. Technical
7. The population

Social Developments as Root Causes of Legal Developments

Due to the slow pace of social development, custom has become the primary source of law. A gradual and voluntary change in the values and attitudes of the community can lead to changes in the legislation. People can believe, for instance, that poverty is undesirable and that legislation should be made to lessen it. Legal change may result from shifts in social preferences, technological knowledge, beliefs, and attitudes. In these situations, the law is responsive to social change.

Law as a Social Control Mechanism

Maintaining stability and providing an orderly existence in society are two goals of the law, and the other is to influence social change by modifying the law to suit the demands of a changing society. Therefore, the law is a crucial social control mechanism. In order to improve socialization, society takes precedence over the law. Any constitution's foundation is the rule of law.

- Law regulates the behaviour of the people in society
- Law preserves valuable and admirable societal ideals by employing force to make people aware of their responsibilities.
- The law prevents people from being exploited. This objective is intended to be achieved via the Indian constitution, criminal and civil laws, and other statutes.

The Role of Law in Social Change :

Understanding how the legal system functions in the context of political, social, and economic viewpoints—all of which are reflected in the Indian constitution—is essential to comprehending how laws and the legal system affect social change. People's relationships, values, things they value in life, and how they define their personal security are all reflected in the law.

Public Opinion and the Law

Therefore, state action in conformity with popular opinion results in the law, which is shaped by public opinion. Occasionally, popular outcry caused the administration to abandon the plan. The will of the people is reflected in public opinion. Laws are made by public opinion.

The Law's Role in Social Change

Today's civilizations are more than just theoretically interested in the role that laws play in social change. Education, racial relations, housing, transportation, energy use, environmental preservation, and crime prevention are just a few of the sectors of life where the law and litigation are crucial tools for change. Since different social institutions are shaped by the law, it has a significant indirect influence on social change. The quality of the labour force was improved by mandatory school attendance, for instance, and this directly contributed to social transformation by accelerating the rate of industrialization.

The Law Changing Society vs. Society Changing the Law

"Society changes the laws" refers to the fact that laws are created by society in accordance with the demands of its democratic institutions, such as through legislation or by embracing custom and usage. A indicator of a society's maturity is when laws are changed. One person can start the necessary change in society by forcing the government to take into account the opinions of the people and form a commission to provide recommendations. The law reform bill was introduced too late. Conversely, "law changing the society" refers to the way that the law of the land forces society to evolve in accordance with it. The beginning of a society's evolution is shown when laws begin to affect it.

Methods How Law Affects Changes in Society

Political Institutions: The government, which consists of the executive, legislative, and judicial branches as well as administrative and law enforcement agencies and the complete infrastructure, is the most basic political institution.

Even if a government might be imposed by force, laws are necessary for its legitimacy and continuation.

Political institutions can be overthrown by force, but they can only be ruled by the law. The government operates as best it can, and the people receive the government they are entitled to.

Economic Institutions: In order to shape a society, the markets require the assistance of the law. Numerous activities that impact economic institutions—which are subject to legal regulation—include unfair labour practices, industrial actions, strikes, lockouts, layoffs, sit-ins, monopolies, restrictions on free speech and trade, price control, and the supply of necessities.

Ideology: In social reformation, ideologies have a specific role. Numerous ideas have been used to explain the role of law. The government is held accountable by the ideology, which also aids in the decision-making process.

faith: The troubles of life are always resolved by the true faith. A religion has two parts: first, devotion, faith, and naturalism; second, philosophy and inquiry. The law continues to have a good influence on guiding society toward prosperity and contentment while maintaining a balanced relationship with religion and morals. A rigorous religion has the power to halt the community's members' mental and psychological development. Thus, religious law and religious law influence, behave, and interact with one another. Law and religion have similar fields, goals, and purposes in society.

Basic Rights to Encourage Social Change

The following are some of the directions that the court has occasionally deemed to be fundamental rights and that are crucial to societal change:

- i. Equal Pay for Equal Work (Under Article 39)
- ii. Protection of Children from Exploitation (Under Article 41)
- iii. Abolition of Child Labour in Hazardous Works (Under Article 45)
- iv. Free and Compulsory Education of Children below the age of 14 years (Under Article 47)
- v. Protection of Working Women from Sexual Harassment (Under Article)

- vi. Free Legal Aid to Poor and Speedy Trial of under Trail Prisoners (Under Article 39-A)
- vii. Right to Work and Medical Assistance to Workers (Under Article 41)
- viii. Protection of Ecology and Environmental Pollution (Under Article 48-A)

Conclusion

Law is a tool or collection of social control strategies used to govern social interactions.

The interconnectedness of social issues rather than their isolation must be seen from a system perspective.

Since the law essentially serves to maintain the status quo and prevents the systemic, radical social change required for psychological and societal well-being, liberal psychologists' well-intentioned attempts to reform the law in accordance with values like equality, justice, privacy, and dignity are frequently misguided. In practically every aspect of society, the law has changed things. Social control is the primary role of the law, and legislation and adjudication are the primary means by which it does so. Law changes are just one of many ways society is changing. Laws can also be viewed as both proactive and reactive in terms of societal change.

BIBLIOGRAPHY :

1. Dennis, R. F. (1991). Law against Social Change. Paper presented at the annual convention of the American Psychological Association, San Francisco.
2. Harper, C.L. (1993). Exploring social change. Engelwood Cliffs: New Jersey.
3. Pandey, J.N. (2001), Constitutional Law of India. Central Law Agency, Allahabad.
4. Tripathi, G.P. (2012), Law and Social Transformation. Central Law Publications, Allahabad.
5. <https://sites.google.com/a/g.rit.edu/suknotes/law-and-society/chapter-7-law-and-social-change>
6. <https://www.legalserviceindia.com/article/1592/Law-and-Social-Change-in-India.html>