Journal of Contemporary Law and Society, *Volume 2, Issue 2, June 2025, pp. 212-214*

*TECHNICAL ARTICLE*
Online ISSN: 3139-1079
*Doi: 10.18311/JCLS/2025/V2I4/51408*

Online ISSN : XXXX-XXXX

Journal of Contemporary Law and Society

**Contents available at:** *www.informaticsjournals.co.in/index.php/jcls*

JCLS

# Law and Society: A Theoretical and Practical Approach

**Nayanika Mallik**

Master of Laws (L.L.M), Student at WBNUJS, Kolkata - 700010, West Bengal, India; mallicknayanika10@gmail.com

We regularly encounter law in our daily lives. Anyone opening the newspaper or reading news online in recent years would see articles discussing the legal debate over the influence of law on society and society on law. The relationship between law and society is dynamic and symbiotic, where laws regulate social conduct, and societal values shape legal frameworks. Law provides order, protects rights, and promotes justice, while society needs law for stability and to facilitate positive social change. This relationship is evident in India, where legal measures against untouchability or for gender equality have aimed to transform social norms and create more equitable conditions. Law and society are inextricably intertwined, as laws determine social behaviour while societal norms shape the legal construct. Laws serve as the order and protect rights; they promote justice based on any given community´s value systems and priorities. The succession of laws influences society and in the same way, social forms act on them; for all measure legal measurements are fought out with similar sporting energy. This relationship is critical for how legal systems work and adapt to social change. This connection is one of the things that shows us how deeply legal norms relate to social ones.

The interaction between law and society raises critical questions: Does law merely codify existing social norms, or does it lead social change? Is law autonomous, or does it depend on the socio-economic structure of society? To answer these questions, scholars have developed theories that range from classical sociological perspectives to critical jurisprudence. At the practical level, courts, legislatures, and social movements play a pivotal role in shaping this relationship.

This article explores the theoretical foundations of law and society, its historical evolution, and the practical implications in contemporary times, with a particular focus on India and relevant global perspectives.

In Theoretical framework, the Classical Sociological Perspective Émile Durkheim viewed law as a manifestation of the collective conscience of society. According to him, law reflects the moral and social solidarity of a community. He distinguished between repressive law in mechanical societies (based on punishment) and restitutive law in organic societies (focused on restitution). This shows how law evolves with societal complexity. Max Weber analysed law through the lens of rationalization and bureaucracy. He argued that modern legal systems are characterized by formal rationality, where law is applied through codified norms and legal procedures rather than arbitrary decisions. This rationalization ensures predictability and stability in society. Karl Marx viewed law as a tool of the ruling class to maintain dominance. According to the Marxist perspective, law is not neutral; it reflects the economic base of society and reinforces class structures. Thus, social change through law is limited unless the underlying economic structure changes. In Sociological Jurisprudence, Eugen Ehrlich emphasized the concept of living law, which refers to the norms that actually govern social behaviour, as opposed to formal legal rules. According to Ehrlich, the centre of gravity of legal development lies in society, not in legislation. Roscoe Pound advocated for law as a tool of social engineering. He believed that law should balance competing social interests and create harmony among them. His theory highlights the practical role of law in shaping social behaviour and promoting justice. In Modern Theories,

Critical Legal Studies (CLS): Challenges the neutrality and objectivity of law, arguing that law perpetuates social hierarchies. Feminist Jurisprudence: Examines how law reflects patriarchal structures and advocates for gender equality. Law and Economics: Analyses law based on efficiency and market principles, influencing areas like corporate governance and competition law. In Historical Evolution of Law and Society, the Ancient and Medieval Period, law was deeply rooted in religion and customs. For example, in India, Dharma governed social relations, while in England, common law developed through customs and judicial decisions. Law reflected societal structures such as caste, class, and gender roles. In Colonial Era, Colonialism significantly altered the law-society relationship. In India, the British introduced codified laws, replacing traditional systems like panchayat justice. This created a dichotomy between formal law and customary law, a tension that persists even today. During Post-Independent India, the Constitution of India marked a transformative moment by introducing principles of justice, equality, and liberty. Landmark social reform laws such as: Hindu Code Bills (1950s): Redefined marriage, inheritance, and gender rights. Abolition of Untouchability (Article 17): Aimed at eliminating caste discrimination.

## Practical Approach: Law in Action: Law as an Instrument of Social Change

Law has played a proactive role in shaping modern societies. In India, the judiciary has often acted as a catalyst for social transformation through Public Interest Litigation (PIL). Examples: Kesavananda Bharati v State of Kerala (1973): Established the basic structure doctrine, ensuring constitutional supremacy. Vishaka v State of Rajasthan (1997): Laid down guidelines against sexual harassment, showing law's role in gender justice. Naz Foundation v Government of NCT of Delhi (2009): Decriminalized homosexuality (later affirmed in Navtej Singh Johar v Union of India, 2018). In Social Movements and Legal Reform**,** Social movements often influence legal reforms, such as: The Right to Information Act, 2005, driven by grassroots movements for transparency. Environmental movements, leading to legislations like the Environment Protection Act, 1986 and judicial innovations like the public trust doctrine. In Comparative Perspective, globally, cases like Brown v Board of Education (1954) in the US illustrate how law can dismantle systemic racial segregation, reinforcing the principle that legal decisions shape societal norms.

## The Role of Law in Society: Law as Social Control

Law functions as a means of social control by establishing boundaries for acceptable conduct[1]. It provides mechanisms for resolving disputes, punishing wrongdoing, and promoting order. However, informal social norms and institutions also regulate behaviour alongside formal laws. Law and Social Change, Laws do not merely reflect society but actively shape social norms[2]. Landmark legal reforms, such as the abolition of untouchability in India[3] or the decriminalization of homosexuality[4], demonstrate how legal changes can lead to shifts in public attitudes and societal structures. Law as a Reflection of Power Relations Laws are often tools of dominant social groups. Critical theorists argue that legal systems may reinforce existing inequalities, for example, by disproportionately targeting marginalized communities or legitimizing corporate power[5].

Case Studies & Jurisprudence: In Kesavananda Bharati v State of Kerala (1973) 4 SCC 225 – Judicial review as a tool to maintain constitutional democracy. Vishaka v State of Rajasthan (1997) 6 SCC 241 – Gender justice and workplace equality. Shayara Bano v Union of India (2017) 9 SCC 1 – Struck down triple talaq, balancing personal laws with constitutional morality. Brown v Board of Education 347 US 483 (1954) – Abolished racial segregation in schools, highlighting law as an agent of equality.

Contemporary Challenges, includes, Globalisation and Technology, Globalisation has introduced complex legal challenges, including: Cross-border data protection (GDPR in Europe), as well as, Cyber laws to tackle online crimes. Customary Law vs. Modern Law says, Indigenous and tribal communities often face conflict between their customs and state- imposed legal norms. Social Inequalities and Access to Justice, despite progressive laws, marginalized groups often face barriers to justice due to poverty, illiteracy, and systemic bias.

**Challenges in the Law-Society Relationship,** includes, Social Stigma and Underreporting: Even with progressive laws, social stigma prevents many victims

from coming forward[6]. Legal provisions alone cannot change deep-rooted cultural attitudes. Execution Gaps: There is often a significant gap between law on paper and law in practice[7]. Factors such as inefficient judiciary, lack of training, and corruption impact the effective implementation of laws. Influence of Power Structures: Law does not always function in a neutral manner. Powerful interest groups may influence legislation or its enforcement, leading to biased outcomes[8].

While concluding, the relationship between law and society is neither static nor unidirectional. Law shapes society, but its legitimacy depends on social acceptance. To ensure harmony: Participatory law-making must include voices from all social groups. Judicial activism should be balanced with democratic accountability. Legal education and awareness are essential for societal empowerment. Technology-driven justice (e-courts, AI in legal processes) should ensure accessibility for all.

In conclusion, law and society must evolve together, guided by principles of justice, equality, and human dignity.

## Reference

Brown v Board of Education 347 US 483 (1954).

Emile Durkhiem , the division of labour in society (Free Press 1984).

Eugen Ehrlich , Fundamental Principles of the Sociology of law (Transaction Publishers 2001).

Kesavananda Bharati v State of Kerala (1973) 4 SCC 225.

Karl Marx's A Contribution to the Critique of Political Economy (Progress Publishers 1977).

Pound R. 'Law in Books and Law in Action' (1910) 44 American Law Review 12.

Shayara Bano v Union of India (2017) 9 SCC 1.

Vishaka v State of Rajasthan (1997) 6 SCC 241.

Weber M, Economy and Society (University of California Press 1978).

## Endnotes

1 *The Division of Labour in Society (Free Press 1933)*

2 *Lawrence M Friedman, Law and Society: An Introduction 1977)*

3 *The Constitution of India, 1950, Article 17*

4 *Navtej Singh Johar v. Union of India (2018) 10 SCC 1*

5 *The Critical Legal Studies Movement (Verso 1986)*

6 *Nandini Sundar, 'The Case for POCSO Act' (2013) Economic and Political Weekly.*

7 *Ministry of Women and Child Development, Report on Implementation of POCSO Act. (2018)*

8 *Michael Foucault, Discipline and Punish: The Birth of the Prison. (1977)*