

Relationship between Law & Society: a Legal Perspective



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Abstract

Law, which is very important for running the society in a proper manner, is often in the form of well-written rules. Law refers to the accepted and state-enforced rules relating to human conduct. Law is made by the state in the interest of the welfare of the individuals that eventually may contribute to the welfare of the state itself. It is mandatory for every individual of society to follow them.

The non-compliance of law results into punishment as per the nature of the crime. The legal system in India has much to reveal on rights and responsibilities, and on the acts that fall in the category of crimes punishable by law.

Law plays a vital role in the proper functioning of the society through governing the behavior and activities of the individual. Law aims at regulating the conduct of society by providing certain rights to the individual and by imposing certain duties on him. It also aims at having a check on crime in the society.

The law is made by the state or government; it is applicable equally to all in a country; it takes precedence over all other social norms and standards; under the law, the citizens do not have the freedom to choose to obey it; it has provision of punishment for those acts that are against law; it provides rules for contract-making, marriage, succession etc.

This paper serves as an important document on the relationship of law and society. The findings reveal that law and society are related to each other, and that, they cannot work and function effectively in the absence of each other. In the modern society, the modern law works through the written rules and regulations, while in some of the primitive societies, still the primitive laws recognized by the local customs and traditions prevail.

Keywords: Law, Society, Legal Perspective, Anti-social, functioning, community, social order.

Introduction

As human beings need air to breathe and live, the civilized society needs law for its successful and smooth running. When there is physical, economic and mental exploitation of any member of the society, law is created to handle such a situation. The law makes every effort to provide justice and equality to every member of the society through protection to the weaker and oppressed. Law is made by man, and it governs society. Law makes it binding for every person to work in a disciplined way following the rules and regulations.

In the regulation and governance of a society, whether it is primitive or modern society, the role and contribution of law is so immense. The question is which of the two, namely, law and society, emerged first. Obviously, it is the society that emerged first, and in order to enable the society perform its functions in a smooth way, there emerged law.

In the primitive society, the written rules and regulations were unknown to the people because due to their ignorance they were unable to understand it. In such societies the norms, such as, folkways, mores, customs and traditions prevailed and contributed to the regulation of the society in a way that no one was allowed to go against the established norms. If anyone ever tried to violate the norms, his boycott was made at the level of the community which the person belonged to.

As we know, no state can run and function systematically in the absence of law, in the same way, no society can run in the absence of law. It simply means that for the proper and systematic functioning of the society, certain laws are required to control those acts of the individuals

that fall in the category of crime. The processes of social control enable a society to operate in a balanced manner.

In terms of control, it is notable that the state is governed by written rules and laws recognized by some state authority, while society is governed by unwritten rules that include public opinion, norms, customs etc. It is with the planned rules made by the state that the ideals of society continue to develop naturally over time.

The society succeeds in running and performing its functions successfully only through social control. Without having control over the undesired activities of the individuals, it is impossible to maintain its existence. In the present context, the role and contribution of the social processes cannot be underestimated and set aside. It will not be wrong to comment that social processes link the individual with society and social order which is established by the proper and approved working of the members of the society.

Indeed, law and society are inter-related. No doubt, it is society that emerged first and made the existence of human beings possible through linking them to the culture created by them, but law is equally important being a part and parcel of culture, and its contribution in the social control cannot be ignored.

Objectives of the study

1. Developing an understanding about society
2. Tracing out the various aspects of society and social system
3. Developing an understanding about law and its significance
4. Spotting the significance of law and legal system
5. Pointing out the need of law for the proper functioning of society and social order
6. Focusing the relationship between law and society
7. Producing the picture of the societies where the modern law does not work
8. Producing the picture of the societies where the modern law works
9. Highlighting scene of a balanced society
10. Serving a legal perspective of the relationship between law and society
11. Interpreting the issue in the context of India

Review of literature

David M. Trubek (1990), in **Back to the Future: The Short, Happy Life of the Law and Society of the Law and Society Movement**,

Examines that the domain of social knowledge is socially constructed, and the various knowledges that result serve the purposes and further the projects of social groups.

Dr. Miro Cerar (2009), in **The Relationship Between Law and Politics**,

Examines some basic characteristics of the relationship between national and international law and politics. The law functions in relation to politics in three basic aspects, namely as a goal, a means, or an obstacle. Finally, politics can interpret law as an obstacle on the way toward the realization of certain political goals.

Dermot Feenan (2009), in **Foreword: Socio-legal studies and the humanities**,

Observes that within this cross-cutting category can be seen the gravitational force of law. The humanities are deployed with reference to law. Literature, poetry, music, etc. are made centripetal to law's pull. In its most pronounced form, literature is mined for its use in teaching lawyers how to write, read and teach more effectively.

Chris Ashford (2010), in **Socio-Legal Perspectives on Gender, Sexuality and Law**,

Observes that in terms of issues of gender, sexuality and law, it would not be unusual to consult with literature in sociology, psychology, history, media, politics, cultural studies, geography, anthropology, criminology and of course sexology.

Vytautas Slapkauskas (2010), in **The Significance of the Sociological Approach to Law for the Development of Jurisprudence**,

examines that on the basis of the development of social values and common rules of behavior we may distinguish three types in the sociological approach to law: 1) the classical sociological approach, which is characteristic of traditional society; 2) the modern sociological approach, which is characteristic of industrial society; 3) the post-modern sociological approach, which is based on maximizing individual welfare. The sociological approach is essentially practical and expresses the relationship between society as well as its individuals and groups with law.

The classical sociological approach to law emerges as the legal order of the state is gradually replaced by the legal order based on customs. The development of the modern sociological approach to law can be divided into two stages: 1) The stage of developing a democracy, where order is established by means of laws and successive legislation. Members of society are expected to voluntarily obey the legal order of the state. Thus legislation is based on increasing knowledge about the reality of law. Knowledge of "legal realism" is a stimulus for the sociology of jurisprudence and the development of the sociology of law. 2) The stage of using modern law as an instrument of creating the modern state. In the process of symbiosis between democracy and modern political thought jurisprudence has created the notion of law as an instrument of social change.

Anthony D'Amato (2011), in the study entitled **On the Connection between Law and Justice**,

Observes that law is nothing but a set of tools, admittedly complex and intellectually engaging. But we should not get so caught up in the intellectual interest of law that we forget that law in itself cannot solve human problems. Like any other tool, law may facilitate the solution of a given problem. But we cannot expect law to tell us how the problem ought to be resolved.

Lynn Mather (2011), in **Law and Society**,

Holds the idea that law is not autonomous, standing outside of the social world, but is deeply embedded within society. While political scientists recognize the fundamentally political nature of law, the law and society perspective takes this assumption

several steps further by pointing to ways in which law is socially and historically constructed, how law both reflects and impacts culture, and how inequalities are reinforced through differential access to, and competence with, legal procedures and institutions.

Peer Zumbansen (2014), in **Law & Society and the Politics of Relevance: Facts and Field Boundaries in 'Transnational Legal Theory in Context'**,

Argues for the need to engage in particular processes of 'translation', dialogue and reciprocal engagement in order to more adequately grasp the dynamics as well as consequences of allegedly clearly defined legal-regulatory areas with their corresponding epistemologies.

Bryant Garth and Joyce Sterling (2014), in the study **From Legal Realism to Law and Society: Reshaping Law for the Last Stages of the Social Activist State**,

Examine key institutions that funded and/or encouraged links between law and social science--the Russell Sage Foundation, the Walter E. Meyer Research Institute of Law, and the American Bar Foundation. The article seeks also to investigate more generally the factors that came together to build a field of law and social science--which in turn helped to provide the ideas and build the institutions involved in the Johnson administration's War on Poverty.

Himangshu Rathee (2015), in **Law and Society**, examines that social rules play a vital role in human society and such rules distinguish human societies from animal groups. Behaviour of humans towards others is controlled, directly and indirectly through moral standards, religious doctrines, social traditions and legal rules. Legal rules are significant in the world of business, with matters such as banking, money, credit and employment all are regulated by law to some extent. In a complex society, there is hardly any area which is untouched by law. Even a basic activity like eating is indirectly affected by law as the food one eats is required to meet rigorous standards of purity, hygiene and even description. Driving, handling property etc. is also governed by law.

Working hypothesis

1. Society is an abstract system that encompasses all the groups of human beings
2. Culture, life in community, social control are some of the major aspects of society and social system
3. The written rules and regulations framed by the state are law
4. In the primitive societies, the anti-social activities of the individual are controlled through customs and traditions
5. The modern societies allow the modern law to work
6. Law is a binding force and governing body to all in community
7. Law governs the society by preventing the anti-social activities of the individual
8. Law allows the individual to do what is in the interest of the society
9. Law smoothens the functioning of the social system

10. Legal system imparts identity to a nation
11. Without a legitimate legal system, the existence of society is not possible
12. Law is individual-welfare oriented and protects the rights of the individual

Research Methodology

The research methodology worked out for the purpose of the present study involves all the specified steps encompassed in the process of research and study. The steps undertaken for this study are enlisted under-

1. Selecting the title
2. Defining the problem to be studied
3. Defining the generic objectives associated to the process of legitimate scientific study and research
4. Defining the specific objectives associated to the study
5. Formulating null and alternative hypotheses epitomized from the various sources
6. Net-surfing in order to search the various sites having studies on the selected theme and title
7. Selecting the research studies, projects or research papers published in the reputed national and international journals or in books
8. Picking out the content relevant to the title and theme from the selected studies
9. Compiling or collecting data on the theme from the studies
10. Describing and explaining the issues encompassed in the objectives
11. Making interpretation of the cause and effect relationship of the issue chosen for the study
12. Making findings of the study and serving them in the form of conclusion

Core-findings

1. A system of established principles and regulations that are in the form of legislation or of custom and policies; that are applicable to the people in a community, and that are recognized and enforced by judicial decision is law.
2. Law is a wide term which includes any written rule, collection of rules prescribed under the authority of the state or nation
3. Society is an abstract system formed of two or more than two individuals and the interaction making by them
4. Some of the major aspects of society include-social structure, social order, social system, social control each of which is important and significant in itself
5. Social system succeeds in functioning when all the units of society work in perfect harmony keeping inter-related to one another
6. In all the societies of the world, whether primitive or modern, criminal or anti-social and anti-cultural activities of the individual are noticed being done by them knowingly or unknowingly
7. In order to control such activities, law is an effective tool which punishes the offenders accordingly
8. Law plays a vital role in controlling the undesired activities of the individual that infringe and violate

the rights of the other individual or individuals in a community

9. Law and society are inter-related, that is, there is a close relationship between the two
10. Without a society, law has no meaning and existence, and without law, there can be no proper functioning of society and social order.

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