

The Effectiveness of Social Values and Law in Society

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Abstract: *In assessing the social value of law, the chapter uses an approach that considers how certain social goods promote a better quality of life and looks into how law may be able to aid in attaining and securing each social good. It looks at the second methodological principle to determine the actual effects of the qualities of law since empirical methods of investigation are used to analyse how officials and citizens take law in hand. The chapter generally adopts a constitutive view to determine the influence of law in structuring society a collective term for how law organizes the world 'into categories and concepts' and accounts for 'thought and action'. Any person who attempts to study law in society is faced with the dilemma of either taking law too seriously or not taking it seriously enough since one may view law simply as a system of rules. This study will look into ideas that are contained in both perspectives: that law can be a distinctive social phenomenon although it may be interrelated with other aspects of society; that law exercises authority over society but restrains and influences society in doing so; and that law is, in a way, an independent social formation while it is simultaneously interdependent with other social formations. In other words, in studying law, one must be able to look at the qualities specific to law while also considering the role of law and how this affects society.*

Keywords: law, society, social phenomenon, authority, restraint, social formation.

I. INTRODUCTION

There are several ways of examining law in society. Such disciplinary approaches would include a historical approach, a political science approach, an economic approach, and approaches from other fields of social science like sociology, psychology, anthropology. Each of these approaches has its own aims and methods. This book uses an approach that is located within socio-legal studies or law-and-society, and this approach aims to understand law as a part of society as it has a distinct social form while it becomes interconnected with other social forms. The method for this approach consist of identifying the features of a legal order that are important in determining social facts that affect the actions of citizens and officials and examining the implications and meanings associated with these features¹. To be able to acquire an understanding of how social rules become standards of behaviour, the social context in which these occur must first be analysed while considering the various possible consequences attributed to these said rules. To Hart, assuming a theory of law that is both analytical and sociological meant that one should avoid a natural law approach that confuses the social reality of law with a reality which people would prefer, and it also means that the abstraction of involved theories should be made on a manageable social level. Hart identifies the constant and general features of working legal systems and analyses the internal aspects of social rules. This chapter and the succeeding chapters attempt to consider Hart's description of a municipal legal system as composed of social rules by examining this point of view of law in society. To be able to acquire an understanding of how social rules become standards of behaviour, the social context in which these occur must first be analysed while considering the various possible consequences attributed to these said rules². To Hart, assuming a theory of law that is both analytical and sociological meant that one should avoid a natural law approach that confuses the social reality of law with a reality which people would prefer, and it also means that the abstraction of involved theories should be made on a manageable social level. Hart identifies the constant and general

¹Ahuja. R., Indian Social System, Rawat Publications, 1st ed, 1993, p.45-46.

²Srinivas, M.N., Caste in Modern India and others, Asia Publishing House, 1st ed, 1964 p. 87-88

features of working legal systems and analyses the internal aspects of social rules. This chapter and the succeeding chapters attempt to consider Hart's description of a municipal legal system as composed of social rules by examining this point of view of law in society. Although one point of view would point out that the law consists of social rules because these rules are said to depend on social conventions, the point of view of law in society would look at it differently. In order to understand the nature of law as a social formation, its elements have to be examined and its ties to social contexts have to be analysed. The social context is more than just a common point for law and other social elements; it also serves as a part of the constitution of law. This chapter studies what law meant during the time that laws and other legal concerns were not yet established. It does this by retracing legal evolution from *rules* then to *rulings* then finally to *legal acts*. Law in its most elemental form is neither a rule nor is it ruling, but it is embodied through an act that has legal meaning.

The rule of recognition, as a social fact, aids in understanding how social rules make up a system of law in two ways. First, it serves as an ultimate rule that links rules to form a system as it identifies the conditions under which new rules are made and provides the basis for determining whether any social rule is a legal rule. Second, it bestows authority on specific rules as laws since any law made that complies with the rule of recognition obtains a binding quality that requires officials to act in accordance with the rule. Its two elements involve convergent behaviour on the officials' part and an internal attitude that considers the said convergent behaviour as obligatory. Admiration and scepticism regarding the rule of recognition has raised issues and these are discussed in this chapter.

Two of the most interesting ways in which law interacts with other parts of society involve the following situations: the first is when officials make, interpret, and apply the law; the second involves how individuals and organizations conduct their activities in accordance with the law. As images regarding these situations come to mind, the notion of *social sphere* is introduced to get a better grasp of those images. A social sphere may be defined as an area of activity where the actors are able to unite in sharing understandings, rules, and principles, regarding the activity. These understandings influence the way in which individuals engage in such activities. The second methodological principle in the study of law in society examined in this chapter focuses on how legal rules are to be construed and managed by officials and citizens. This Article gives emphasis on the concept of social spheres and looks at how this helps in providing structure to the social world.

This Article draws attention to issues regarding law: one is that there are several other types of law aside from state law, and the other is that law has the tendency to become coercive. The issues are related since law has almost always been linked with the sovereign, and this draws attention away from other forms of law. These issues bring about the notion that law is a coercive order that is controlled by the sovereign state to cater to its interests. In spite of all the evidence found that affirms the idea that legal orders do not take into consideration the concept of the state and its institutions and its structures enough, legal theory is evidently restricted to the law and legal systems of modern states. The main issue in this chapter concerns the place of coercion in a social amount of law³.

Through history, it could be observed that there are other kinds of law that have been influential in no small part on the formation of modern law. Such laws like Church laws and customary laws however, are, in a way, demoted to subordinate positions. International law a fusion of customs and practices that nation states and conventions came up with and comply with is the only form of non-state law in the ascender. This kind of law has become the basis for international legal standards for a wide range of themes and subject matters. State law, on the other hand, can be viewed through both a descending thesis of government, and an ascending thesis of government. This chapter further explains legal pluralism as a reaction to state law that runs parallel with state law. Also, this chapter discusses how other legal orders may seem parallel and intersecting with each other.

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³³Desai, A.R., Rural Sociology in India, Eastern Publications, 1989, 1st ed, p.156-157.

chapters attempt to consider Hart's description of a municipal legal system as composed of social rules by examining this point of view of law in society.

Any person who attempts to study law in society is faced with the dilemma of either taking law too seriously or not taking it seriously enough since one may view law simply as a system of rules. This study will look into ideas that are contained in both perspectives: that law can be a distinctive social phenomenon although it may be interrelated with other aspects of society; that law exercises authority over society but restrains and influences society in doing so; and that law is, in a way, an independent social formation while it is simultaneously interdependent with other social formations. In other words, in studying law, one must be able to look at the qualities specific to law while also taking into account the role of law and how this affects society.

The social value of law refers to the role of law in regulating private transactions, imposing sanctions for criminal activity, and other activities that may contribute to social goods. In assessing the social value of law, the chapter uses an approach that considers how certain social goods promote a better quality of life and investigates how law may be able to aid in attaining and securing each social good. It looks at the second methodological principle to determine the actual effects of the qualities of law since empirical methods of investigation are used to analyse how officials and citizens take law in hand. The chapter generally adopts a constitutive view to determine the influence of law in structuring society a collective term for how law organizes the world 'into categories and concepts and accounts for 'thought and action'.

As constitutions, legislation, regulations, administrative guidelines, and other sets of formal rules are products of legislators, administrators, judges, and the state in general, for the attainment and realization of certain ends and goals, the law-making process involves endeavors of compromise rather than simply stating purposes. Although common law deals more with managing social relations, this chapter focuses more on enacted law because of the diminishing role of common law. This chapter and the next concentrates on the value that law provides for social life by discussing two key points: the specific functions that law performs in society and the *social value* of law. This chapter on the social functions of law further explains the technical and common usages of the term *function* and looks into the functions of legal rules in particular.

While the first step in the implementation process involves analysing the architecture and structure of law, the second step involves looking into the social environment around the said architecture. In studying the social environment, one has to consider the legal environment, or understand the issues and effects that are directly linked with legal design. Also, the wider social context involved in the interaction of law with its environment must be looked at. It is furthermore important to look at the attitudes and goals that officials want to achieve because these are reflected in the way that laws are designed. Officials do not only interpret rules, but they also have to come up with decision-making procedures about how the rules should be applied.

There have been several instances that illustrate how modern societies make use of law to cause social change by influencing attitudes and common practices of both individuals and groups. In such cases, law becomes regulatory and directive as it sets standards that are aimed in affecting social practices and social relations for a wide range of people. Another use of law involves establishing new legal regimes to promote and allocate social welfare. However, one approach would assert that law should reflect the already existing social relations and practices instead of fundamentally changing them. Although enacted laws reflect social relations while attempting to modify them to fit certain interests and values, regulatory law epitomizes modern law in making social change happen by setting standards that are aimed at influencing behaviour. This chapter focuses on the interaction of a set of laws made to alter behaviour and how this addresses already established attitudes and practices.⁴

Law is defined by a body of rules of action and conduct prescribed by controlling authority, and having a binding legal force, which must be obeyed and followed by citizens, subject to legal consequences. There are various reasons as to why a society needs law for their survival like maintenance of peace in the society, where criminal minds are punished in proportion to the crime they have committed. In a nutshell, it is significant for the society to establish a framework of rules so that boundaries are defined well.

⁴Ahuja. R., Indian Social System, Rawat Publications, 1st ed, 1993, p.187-188.

Role of Law

It helps to keep society moving as without law there would be chaos. Laws are created to serve society and shape morals, promote peace and public policies and to facilitate freedom and future.

Law plays a vital role by creating a norm of conduct in the society to protect its citizen from any damage. The principle ensures that every citizen is provided with an equal opportunity without any discrimination, on the grounds of race, region, religion, caste, colour, creed, biological, economic and social status etc.

Law serves as an effective catalyst of social mediation of relations amongst people for bringing radical changes and transformation in the values and beliefs, social and political dimensions, besides the economic structure.

These help to build a strong society which is based on high standards of morals and ethics.

Law should govern the society, as opposed to being governed by arbitrary pronouncement of any authority which is synonymous to despotism, absolutism, authoritarianism and totalitarianism. Rule of law is very much related to the idea of equality before the law or the equal protection of the laws. Laws should be open and obvious, generalised, universal in application, and expected to endorse the principles of equity, justice and good conscience. Law is the King of Kings, far more rigid and powerful than the Kings. The goal of every society and legal system should be equal and impartial justice for all, ushering the space for peace and prosperity. Law and society are closely interconnected and play a crucial role in shaping each other. In a diverse and complex country like India, the relationship between law and society is multifaceted, with legal systems reflecting and influencing social dynamics. The legal framework in India, comprising legislation, judicial decisions, and legal institutions, interacts with the social, cultural, and political context of the country, shaping behaviour, maintaining social order, and promoting justice. Laws in India play a crucial role in promoting social justice. The Indian Constitution provides for fundamental rights, such as the right to equality, the right to freedom of speech and expression, and the right to life and liberty, which are aimed at ensuring social justice and protecting the rights of individuals. The judiciary, through its role as the guardian of the Constitution, interprets and enforces these rights, and ensures that justice is delivered to all citizens.

II. CONCLUSION

The law plays a fundamental role in society. It is a set of rules and regulations that govern human behaviour and interaction. Without law, society would descend into chaos and anarchy. It moves beyond using money as the main indicator of value, instead putting the emphasis on engaging people to understand the impact of decisions on their lives. The people's perspective is critical. Social Value is a principle that champions the holistic well-being of both current and future generations. Emphasizing the importance of supporting both individual welfare and planetary sustainability. Social Role Values was defined as “the enablement, establishment, enhancement, maintenance, and/or Défense of valued social roles for people—particularly for people at value-risk—by using, as much as possible, culturally valued means.