

# INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi Disciplinary  
Peer Reviewed

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ISSN

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# **“WHY ONE SHOULD OBEY THE LAW FROM A SOCIOLOGICAL VIEWPOINT?”**

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## **ABSTRACT**

For India, it is especially important for every layer or group of people to respect the established order of the law. This is important for peace and order in our society. The Sociological School of Jurisprudence will also help understand why it is that way.

The paradigm emphasizes the close relationship between the law and society, so its key concept is the law as a mirror of the community. We, therefore, affirm society as good and in general affirmed by keeping to law-following path. By adhering to the law, we support an environment conducive to personal development and give expression to the feeling of being accepted here. This perspective also recognizes that culture matters. It always leads to the state of the Indian man.

Sticking to the law does not only mean being just, but it means reinforcing the ties between us as citizens. It leads to trust and collaboration. Therefore, we can become better citizens by relying on the ideas of the Sociological School of Jurisprudence. As a result, all of us can coexist in a more robust and thriving society.

**Keywords** – Law, Sociological School, Jurisprudence, Schools, Society

## **INTRODUCTION**

Sociological jurisprudence, a term coined by the American jurist Roscoe Pound, encapsulates an approach to comprehending law within contemporary societies. Pound posited that law functions as the principal mechanism for harmonizing divergent interests. However, Pound's insight lacked a thorough exploration of how these interests were molded and why particular interests wielded more influence within the legal system. Although Pound's perspective was

impactful, particularly during the Progressive era, it lacked a sociological profundity concerning the genesis and privileging of interests within the legal framework.

Sociological jurisprudence emerged as a consequential school of legal thought in the 20th century, with Pound as its prominent proponent. Pound, who served as the dean of Harvard Law School from 1916 to 1936, advocated for pragmatism in law. This movement aimed to facilitate legal reform and social advancement, albeit it did not primarily pursue institutional changes. Instead, it concentrated on reformulating prevailing notions about the study, interpretation, and application of law.

Despite the significance of Pound's contributions, they were not devoid of limitations. While his concept of sociological jurisprudence underscored the role of law in reconciling diverse interests, it lacked a nuanced comprehension of the sociological dynamics shaping these interests within the legal system.

### **MEANING OF SOCIOLOGICAL JURISPRUDENCE**

Sociological jurisprudence, as a synthesis of different juristic thoughts, regards law as social fact. Their main focus is on the understanding of the relationship between law and modern social institutions, marking out significance of concentrating on social purposes and interests served by law rather than abstract individual rights. The legal scholars argue that, the law should essentially be understood as a simple aggregate of intercouring individuals in social groups in both past and contemporary societies; be they ancient or modern.

The sociological jurists are interested in how law impacts on society and the way around it. They believe that through that impact it plays a role for development.

This school of thought developed as a reaction to rigid positivism which was preoccupied with state coercion rather than moral justice in human relations. It also opposed historical school's orientation towards customs and traditions of the past which were seen as obstacles to the growth of law and promoters of myopic nationalism in various countries.

Law is viewed by proponents of sociological jurisprudence, as an amalgamation of other disciplines such as psychology, philosophy, economics, political science among others. For them, law is an applied science used to solve problems encountered by societies at large or

individuals personally. Instead of being considered as a mere command, divine will or a mirror image of the people's conscience, sociological jurists have stressed its functional role and influence on society.

Auguste Comte, Herbert Spencer, Rudolph Ihering, Eugen Ehrlich, Leon Duguit, Francois Geny, Dean Roscoe Pound and Supreme Court judges such as Oliver Wendell Holmes and Benjamin Cardozo were some of the major contributors to the development of sociological jurisprudence who were influenced by Pound's sociological theory of law.

## **VIEW OF DIFFERENT JURISTS RELATED TO THE APPROACH**

### **Montesquieu**

Often seen as the father of the sociological school of jurisprudence, Montesquieu was a French legal thinker. Even though he did not directly hold forth for sociological jurisprudence, his thoughts paved way towards understanding how social conditions impact upon law and legal institutions. In his book "The Spirit of the Laws", Montesquieu stressed that the laws of a country should be influenced by its own peculiarities and take into account many factors including climate, soil fertility, geographical location, leading professions, religion; riches; trade; manners and customs.

Montesquieu held that history was an important tool in understanding societal structures and economics played a major role. He said that the laws of any given nation have to be molded according to its specific national characteristics to ensure that there is harmony among different factions making up a society.

Montesquieu's knowledge about how law affects societies has made him one of the precursors of sociological jurisprudence since he argued for taking into consideration such things as social interdependence between law and society as well as economic factors during the analysis of legality. Therefore, Montesquieu's contributions deserve recognition as one of the early influences on this school.

### **Auguste Comte**

August Comte, the famous French legal thinker and philosopher, is considered to be the founding father of sociology because he was the first person to use "sociology" as a separate subject. He used scientific method in studying sociology that is often referred to as 'positivism'.



According to him, like any other living organism, society can change for the best if it follows scientific laws. To do this, he suggested that principles should be formulated through observation and experimentation of facts alone, excluding metaphysical considerations.

Moreover, Comte also argued that human beings cannot live in isolation since they are inherently social creatures. He added by saying all human desires arise from their social life and therefore should be directed and controlled by law and politics. From this point of view, Comte insisted that law must focus on society rather than an individual. Such sociological framework had a great impact on further positivist thinkers like Durkheim who developed theories about social solidarity based on his foundation while later philosophers such as Leon Duguit were inspired by these jurists in creating his own theory of solidarism.

### **Herbert Spencer**

Herbert Spencer, an English sociological theorist, made a great contribution to our understanding of how society has evolved from simpler to more complicated forms; it provided a scientific base for the organic theory of society. There are four sources of law according to Spencer: divine laws, fiat from bygone rulers, the will of the ruler and opinion of the majority. He differentiated between divine laws and human laws as hardened customs.

Spencer felt that law was created so as to manage societal disagreements arising from conflicting interests among people in society.<sup>1</sup> Dr. Allen summed up Spencer's social organism on his belief that members of this community relied on each other thereby emphasizing civilization responsibility beyond the traditional sovereign-subject relationship. Spencer's theory stressed the necessity of looking at other social phenomena when considering legislation.<sup>2</sup>

Influencing their consorts later scholars in jurisprudence have gone deep into socio-legal research and looked at how law is related with society.

### **Roscoe Pound**

The father of this approach is often referred to. As Dean Roscoe Pound rightly stated, "sociological jurists pay more attention to the working of the law rather than its abstract

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<sup>1</sup> Spencer Herbert: Principles of Sociology p. 537

<sup>2</sup> Dr. Allen C.K.: Law in the Making (7th ed. 1964) p. 85.

content.”

According to Roscoe Pound’s outlining<sup>3</sup>:

- i. Sociological jurist lay emphasis on the functional aspect of law as opposed to its abstract contents. They argue that law cannot be separated from the complexities and practical problems of society.
- ii. It is seen as a social institution which is closely linked with other disciplines and affecting society directly. They contend that human experience informs law construction for societal demands. In sociological jurisprudence, law is understood as an amalgamation of various fields such as philosophy, psychology, political science, economics, sociology among others. The worth or otherwise of a legal provision depends on how it would look in terms of utility, use, effects; practices; functions.
- iii. The sociological school, unlike analytical positivism, dismisses all abstraction. This means that they do not believe in the command or power side of law. The second point is that historical jurisprudence gives great weight to past culture and traditions.
- iv. Its approach towards law can be different from each other as per sociological jurists. Critical legal studies (CLS) on the other hand argue for looking at the functional aspect of law pragmatically as a social science. An example of this is where Holmes defined law in terms of judicial prediction based on court verdicts while Pound thought that it was connected with adjustment of human conditions to prevailing social forces within a society.

## **SOCIOLOGICAL JURISPRUDENCE IN INDIAN CONTEXT**

To comprehensively assess sociology and jurisprudence in India, this paper must look at both pre-independence and current Indian law. It is something that was not good for the social needs of the Indian population. This was a cruel system that did not care for the feelings and expectations of the Indian people. By doing this, they were able to divide Indians along caste lines so as to exploit them against each other in order to serve their own selfish interests. So, before independence, laws in India operated under formalism, rigidity, repression and punishment which positions itself well with Austin’s command theory of law.

Legislative, executive and judicial arms used law to protect Britain’s interests ignoring even

<sup>3</sup> Roscoe Pound! The Scope and Purport of Sociological Jurisprudence (1911) 25 Harv. L. Rev. 489.

basic human rights of local people who were abused and deprived by the colonial masters. Austin's theory refers to a situation where 'justice according to law' would have been called upon although it meant actual sanctions against Indians. The existing statutes provided British residents in India with several exemptions as well as privileges leading to "one law for the ruler and another for the ruled."

The historical context of this controversy brings to light the necessity for a social approach to law in India, which takes into consideration the cultural, social and economic conditions of Indian society. The interests and rights of its populace should be at the forefront with an aim of dealing with the disparities and wrongs that have been very common during colonialism.

### **IMPORTANCE OF SOCIOLOGICAL JURISPRUDENCE IN GROWTH OF LEGISLATURE AND JUDICIARY SYSTEM IN INDIA**

The growth of the legislative and judicial functions under the Indian Constitution, which have evolved following the introduction of Sociological Jurisprudence in India.

These perspectives allow lawmakers to consider their proposed laws' societal implications or consequences, thereby improving the legislative process. Consequently, this has resulted in more comprehensive legislation that is better able to address varied needs and interests of Indian society.

In line with this principle, sociological jurisprudence when adopted by judiciary leads to a fair decision-making process. The judges are now much better placed as they have a wider understanding of the social context within which legal disputes happen. This approach has led to an improved interpretation and implementation of law that not only ensures justice but also enhances the social cohesion in India.

In general, sociological jurisprudence in India has raised the bar on both legislative and judicial functions within the Indian constitution thus making it more responsive and equitable from a legal perspective.

## **IMPACT OF SOCIOLOGICAL JURISPRUDENCE ON JUDICIARY SYSTEM OF INDIA -**

The wave of nationalism and intellectual awakening gave rise to strong demands for civil liberties and basic human rights. However, British colonial rule suppressed, oppressed and exploited people without any check. Lawyers and judges often mechanically interpreted and applied the law, paying no attention to the actual needs and emotions of the people.

Indian National Leaders like Mahatma Gandhi and Pandit Jawaharlal Nehru were among those who believed that English Law did not address Indian society's needs because it was strictly guided by the Doctrine of Precedent. Nehru insisted that nineteenth-century legal doctrines and principles had little use in a changed twentieth-century world. He argued that reliance on precedents too much barred sociological approach to create new legal jurisprudence.

Upon gaining independence, India adopted a new constitution which embodied social philosophy as well as economic values aimed at achieving an egalitarian welfare state. This was quite different from the British legal system, which set up a legal arrangement centered on Indian peoples' aspirations. The Fundamental Rights chapter of the Indian Constitution contains several chapters on individual liberties and freedom as well as a Directive Principles of State Policy section on social rights. In their judicial decisions, judges have tried to balance individual rights with broader social interests.<sup>4</sup>

The role of law in India nowadays is conflict resolution involving Fundamental Rights and Directive Principles of State Policy which are both aimed at creating an egalitarian society for the sake of the welfare of the whole country.<sup>5</sup> The herewith statement in the preamble, coupled with parts pertaining to fundamental rights, directive principles, fundamental duties<sup>6</sup>, powers and functions of judiciary and constitution amendment procedures all clearly point towards welfare for the masses in India and making law more responsive to social needs.

The dynamic trends on public litigation have provided new ways of looking at the law in the perspective of society. Contributing judges like Dr P.B Gajendragadkar, P.N Bhagwati, D.A

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<sup>4</sup> Part III of the Constitution of India relates to the Fundamental Rights and Part IV embodies the Directive Principles of State Policy.

<sup>5</sup> Keshavanand Bharti(AIR 1973 SC 1461: Minerva Mills v. Union of India, 1980 SC 1789.Waman Rao v. union India ,AIR 1980 SC 271)

<sup>6</sup> Article 51-A

Desai, Justice Krishna Iyer and others have been significant in developing a new Indian jurisprudence that is based on the realities of life. This further shows that the law can act as an effective tool for social transformation aimed at ushering in a new social order which is biased towards equity.

In his judgement on *Indira Sawhney v. Union of India*<sup>7</sup>, Mr. Justice P.B. Sawant emphasized that the Constitution of India being basically a political document must be read to mean “the felt necessities of time’.” Unlike other constitutions, India’s constitution has within it provisions for desired social change. Such changes ought to be made as quickly as possible with minimal friction or any disruption to national life.

The Supreme Court rendered a landmark ruling on secularism in the case of *SR Bommai v Union of India*<sup>8</sup> through a special nine-judge bench. Providing equal treatment to all faiths and denominations is obligatory upon the State, the court ruled. Additionally, it was held that secularism formed part of the basic structure and fundamental law of Indian political system. To ensure that all citizens have access to such socio-economic prerequisites as material well-being, spiritual welfare and political justice; it is purposeful for secularism to enhance human dignity by enabling them achieve moral advancement and attain both wealth and power.

## **WHY OBEY THE LAW?**

### **A SOCIOLOGICAL PERSPECTIVE IN INDIA**

In any society, the question of why individuals obey the law is a fundamental one. This question is uniquely addressed by the sociological school of jurisprudence which focuses on the role played by the law in promoting social well-being and sustaining social order. The purpose of this paper is to analyze sociological basis for obedience to law especially within India.

#### **Social Solidarity and Interdependence**

Sociological school perceives social solidarity as crucial towards its perspective. Durkheim, an eminent sociology pioneer claimed that societies work through interconnections among people. Goods and services are exchanged between parties with emotional support provided. For instance, law is said to act like glue holding all together so as to ensure cooperation among

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<sup>7</sup> AIR 1993 SC 447(634)

<sup>8</sup> AIR SC 1918



citizens and prevent conflicts.

India's complex and diverse society requires social solidarity so as to attain stability and progress. Laws such as Indian Penal Code (IPC) or Code of Criminal Procedure (CrPC) lay down clear standards of what is acceptable behavior thus creating predictability in a situation that would have resulted into chaos. By adhering to these laws, one honors other persons' rights hence facilitating a functional social order.

### **The Use of Law for Social Change**

According to sociological jurisprudence, law is not a body of static rules but a dynamic instrument for social objectives. Legal frameworks can be seen as responding to evolving societal concerns. For instance, the constitutional provisions on affirmative action in India reflect the need to address historic disparities. This contributes to making the society more fair and just.

Additionally, laws are agents of social transformation. The Indian Anti-Dowry Act and bans on female infanticide were aimed at combating deeply rooted social vices. In this regard, adherence to these regulations helps form positive social change.

### **Law's Legitimacy and Norm Internalization**

Sociological jurisprudence suggests that legal legitimacy is critical to its effectiveness. It stems from shared belief in the equity and efficacy of the legal system itself. Individuals are more likely to internalize them as part of societal norms where laws are perceived as just or serving greater good.

In India, the Constitution represents an important founding document containing principles such as justice, equality and liberty. Adherence to laws upholding these principles not only strengthens legality but also builds a sense of responsibility among citizens.

### **Social Engineering and Balancing Interests**

Social engineering, a concept significant in sociological jurisprudence, refers to transforming societies through legal mechanisms. Legal prescriptions can be exploited to influence society's direction toward certain ends such as environmental conservation or economic growth. In the process of adhering to such statutes, one is instrumental in achieving such wider societal

objectives.

Nevertheless, navigating conflicting interests is not easy. India's huge social and economic imbalances occasion circumstances where laws could have differential impacts on various sets of people. It is here that sociological jurisprudence calls for law to be adaptable and adjustable so as to keep pace with changing social realities. Through critically engaging with the law and advocating for reforms, individuals take part in the continuous process of social engineering.

### **Socialization and Informal Norms**

Law's impact transcends formal legal codes. Socialization counts much in shaping behavior. Family, religious organizations, as well as educational systems contribute towards internalizing informal norms which reinforce legal structures.

The Indian landscape consists of a rich tapestry of cultural and religious traditions interwoven with its legal system. These customary ideas are often consistent with prevailing norms that require obedience to rules thereby creating social predictability within communities.

### **CONCLUSION**

The question of why one should obey the law in India is a complicated mix of social patterns, historical backgrounds and the changing relationship between individual and state. Nevertheless, making sense out of the legal system is difficult because it has to navigate through certain challenges like bureaucracy hurdles and social hierarchies.

However, there are many reasons that make it important for individuals to obey the law. By so doing, it helps to create a predictable environment necessary for planning personal lives and businesses. Such laws protect basic rights and enhance social fairness mainly among disadvantaged groups. Moreover, seeking legal measures allows people address unfairness in order to expose accountable leaders .

But there is no way to follow along blindly. The basis of a social perspective of sociology is to think about law critically itself. These laws should be changed by the use of pressure groups and litigation where such laws perpetuate social injustices or are outmoded. Trust in the legal system is important and promoting transparency and expediency within the judicial system are critical.

Finally, a society that respects the rule of law must combine two approaches. One has to do with developing a culture of legal literacy and civic participation; this cannot happen in India without the other on their own hand. Alternatively, it is imperative that law making process incorporates changing societal dynamics in India. By doing so, India would move towards a future where instead of being just rules, the law becomes an instrument for ensuring fairness for all in society.

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