

Investigating the Role of Law as an Instrument of Social Order

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Abstract

Simply put, law is an instrument of social order as it puts reasonable restrictions on all people of a society so that people are able to exercise their liberties without the fear of getting injured by another person (injury, here, is meant as harm to person, property, or reputation). But to provide a deeper insight, a careful analysis on law, social order and the impact of the former on the latter, is required.

The research paper begins with an attempt to define 'law' and 'social order'. It then explores some possible instruments of social order and finally explores the role of law as an instrument of social order. The paper concludes by pointing out various challenges in the present systems and thereby highlighting the importance of maintenance of social order.

1. Definitions

1.1 Law

The term "law" lacks a universally accepted definition, as its meaning varies according to one's beliefs, philosophy, and theory of knowledge. Law encompasses various types of rules and principles, acting as a tool to regulate human behavior. From a societal perspective, law signifies justice, morality, rationality, order, and righteousness. Its meaning often shifts according to the historical context in which it is defined, frequently reflecting the interests of the dominant social class or group at that time. Different jurists, such as Austin, Salmond, Max Weber, and Blackstone, have offered definitions that align with their ideological views, demonstrating how interpretations of law vary across historical and philosophical backgrounds. Broadly, law is a system of rules created and enforced by social or governmental bodies to regulate behavior. It provides a structured framework that governs individuals, organizations, and societies, setting standards and procedures aimed at ensuring justice, order, and fairness.

1.2 Social Order

According to the Oxford Dictionary, the word 'order' means the way in which people or things are placed or arranged in relation to each other. Otherwise, while referring to a controlled state, 'order' can mean the state that exists when people obey laws, rules, or authority. Social order refers to the organized and structured pattern of relationships within a society, governed by a set of norms, values, and institutions. It encompasses the hierarchical arrangement of social positions, roles, and expectations that shape individual behavior and interactions. Social order is maintained through a complex interplay of power dynamics, norms, and cultural values, ensuring stability and cohesion within the society. Institutions such as family, education, religion, and government play a crucial role in shaping and perpetuating social order, influencing individual socialization and conformity. Norms, unwritten rules that govern behavior, also contribute to maintaining social order by dictating acceptable conduct and enforcing sanctions for nonconformity. Additionally, control mechanisms, including laws, social services, and community organizations, work to regulate behavior and maintain social cohesion. While social order provides a sense of security and predictability, it can also perpetuate social inequalities and limit individual freedom. By examining the intricacies of social order, we can better comprehend the complex forces that shape our social world and work towards creating a more just and equitable society.

2. Why do we need to maintain social order?

This is because all humans face dilemmas at least at some point in their lives. And these maybe social or psychological. At the individual level, conflicts often arise from fundamental differences in human attitudes and behaviors. These contrasting attitudes typically manifest as self-centered versus other-centered perspectives, egoism versus altruism, or, in psychoanalytic terms, the clash between the Id and the Superego. The nature of these dichotomies varies depending on the ideological or theoretical framework used to describe and assess various motivations, values, and attitudes. Such personal conflicts resemble those encountered in interactions between the social

groups to which an individual belongs. Conflicts between social classes, ethnic groups, interest groups, religious groups, and others are closely interconnected with the internal conflicts within individuals.

Individuals think, feel, and act largely as members of multiple social groups, and this belonging can become a source of inner conflict when they attempt to reconcile conflicting roles or expectations imposed by each group.

The behavioral outcome of these inner tensions can escalate to overt conflicts, leading to social hostilities on a broader level and internal struggles within the individual. Overall, these conflicts introduce a sense of disorder into human feelings and actions, affecting both social and personal well-being.

Therefore, the solution to conflicting or even harmful human behavior lies in the maintenance of social order.

3. Various possible instruments of social order

3.1 Taxation

Taxes can influence social order by altering public consumption habits, as they impact the prices of goods. Tax policies can encourage certain types of production through customs duties on imports or discourage others with selective excise taxes. It is essential to remember that any tax system will bring specific social and economic effects, which may either support or hinder the achievement of our social goals.

3.2 Education

A key aspect of any social order is an effective system of education. Individuals are born without knowledge of societal norms or expectations and have no inherent understanding of what will be required of them as members of society. To fully integrate into the group, they must learn and become receptive to these social expectations, acquiring the habits, ideas, and skills typical of an adult within that society.

3.3 Media

Media is yet another factor which can affect social order. Communication results in the creation and spreading of knowledge, thereby affecting the behaviour of people. Each individual action, and the relation they hold with each other finally result in the maintenance or destruction of social order.

In fact, anything which causes human activity affects social order to a certain extent, given that most humans are social animals. Therefore, the list of factors mentioned before is not an exhaustive one.

3.4 Morals and Customs

That being said, an important group of related factors which directly affect social order are the values and morals upheld by the contemporaneous society. Morals like “honesty is the best policy”, “sharing is caring”, etc have persisted throughout centuries of human existence as they truly benefit the society at large. For instance, being honest prevents the spread of false information. Likewise, sharing of resources can meet the needs of more people.

Customs too play an important role in maintaining social order. Customs related birth, marriage, death, etc shape beliefs and

ideals so any drastic change in a custom can adversely affect the social order of a society. Therefore, lawmakers of a state often depend on the prevailing morals and customs to make laws. The impact of law on social order has been discussed in detail as a separate topic.

4. Law as an instrument of social order

Law maintains social order by creating a structured framework of rules and regulations that guide individual and collective behavior, preventing conflicts and promoting justice. Through defined standards of acceptable conduct, laws provide predictability and clarity, helping people understand their rights and responsibilities. This clarity reduces misunderstandings and disputes, creating a stable environment in which citizens can interact confidently and safely.

4.1 Criminal Law

One of the main ways law achieves social order is by deterring harmful actions through criminal penalties. Laws against violence, theft, and other crimes help protect individuals and property by establishing consequences for those who violate societal norms. By punishing offences, the legal system discourages behaviors that could disrupt social harmony, ensuring that individuals can live without fear of harm. Such protection is offered by India's latest criminal laws, for instance. These include the Bharatiya Nyaya Sanhita and the Bharatiya Nagrik Suraksha Sanhita – updated from the Indian Penal Code, and the Criminal Procedure Code, respectively.

4.2 Civil Law

In addition, civil laws facilitate peaceful dispute resolution by offering methods for individuals and organizations to settle conflicts without resorting to self-help or violence. This role is vital in maintaining social order, as it provides a structured approach to resolving issues, whether they involve contracts, family matters, or property rights. The legal system's impartial mechanisms, such as courts and mediators, enable people to resolve disagreements fairly, reinforcing trust in the law. The Civil Procedure Code of 1908 and the Indian Contract Act of 1872 are some examples.

4.3 Environmental, Labour, and Consumer Laws

Law plays a crucial role in maintaining social order by establishing guidelines for behavior, promoting fairness, and protecting individual rights. Beyond civil and criminal law, areas like environmental, labor, and consumer protection laws contribute significantly to a harmonious society. Environmental laws, for instance, regulate pollution and waste disposal, ensuring businesses and individuals do not compromise the health and safety of communities. Similarly, labor laws protect workers' rights, mandating safe working conditions, fair wages, and addressing workplace discrimination. These regulations create a balanced relationship between employers and employees, reducing workplace conflicts and fostering productivity. Consumer protection laws safeguard individuals against fraudulent practices and unsafe products, ensuring that companies prioritize ethical standards and product quality. The National Green Tribunal Act, 2010; the Child Labour (Prohibition and Regulation) Act of 1986, and the Consumer Protection (Amendment) Act 2019 are some examples among many. By addressing specific areas of human interaction, these laws reinforce trust within society, prevent conflicts, and

promote a sense of security, making them essential tools in achieving a stable and orderly society.

4.4 Social Cohesion

Moreover, law is instrumental in promoting social cohesion by reflecting and upholding shared values. Laws are often designed to protect collective ideals like equality, freedom, and justice. Over time, they adapt to evolving societal values, such as through anti-discrimination laws, environmental regulations, or labor rights, reinforcing a sense of fairness and inclusivity. Through this constant evolution, law remains a responsive and effective instrument for maintaining social order in a way that aligns with the moral and ethical standards of society.

5. Challenges

However, there are clear limitations to using law to uphold social order, as these measures heavily depend on the policies of individual states. Issues like war and peace are of critical importance to any nation, and agreements in these areas can only be made through political compromises influenced by factors such as economic interests, power dynamics, and conflicting ideologies. Additionally, varying levels of industrial development among nations complicate these efforts, often leading to conflicting interests between developing nations and highly industrialized countries.

The approach to maintaining order also differs depending on the types of threats involved. The potential impacts of war are well-recognized by both the general public and experts, including policymakers. Unfortunately, decisions in these matters are often driven solely by political considerations.

The judiciary plays a vital role in the maintenance of social order. For instance it upheld the right to equality in the *Vishaka v. State of Rajasthan* after which the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013 was legislated. An attempt to curb hate speech was made in the case of *Pravasi Bhalai Sangathan v. Union of India* and the judiciary tried to address social inequalities in the *Indra Sawhney v. Union of India* case. These were a few among many cases which exemplified the role of judiciary in solving of social issues and consequentially in the maintenance of social order.

Conclusion

Social coexistence within a state is only possible when fundamental values are safeguarded by law. This legal protection upholds the established social order by defending core values such as life, health, property, and certain freedoms of citizens. Over time, the extent and methods of protection, as well as the groups of people covered by these laws, have evolved. Protecting these values is essential for social coexistence on a global scale, and legal norms consistently address their preservation.

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