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The Law in Action: The Impact of Sociological Jurisprudence on Indian Legal Thinking and Judicial Process

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The traditional analytical approach to interpretation is found wanting while discussing the complex social, economic, and political structure of India. This article, therefore, will study the profound impact of sociological jurisprudence on Indian judicial thought by treating the law as an instrument for social engineering. This article is an attempt to discuss the theories put forth by various leading jurists in sociological jurisprudence, especially Roscoe Pound's concept of social engineering, and its application to the legal system in India. To establish the application of the theories in the Indian context, a pure doctrine and analytical research methodology is to be employed. Under this, the sources of law would be the Constitution of India, relevant landmark judgments of the Supreme Court, and writings of academics. The conclusions reached are, that the Constitution of India itself is based on a sociological conception with a balanced interpretation of Fundamental Rights and Directive Principles of State Policy, that in India the theories put forth by jurists are actively implemented through PIL and, consequently the law is effectively brought close to the reality, and that such method of law development and interpretation though necessary to deliver substantial justice, has created newer problems of over-reach and judicial legislation within constitutional constraints.

Keywords: *sociological jurisprudence, constitutional law, statutory interpretation, public interest litigation.*

INTRODUCTION

Jurisprudence fundamentally concerns itself with the nature, purpose, and function of law in society. A central concept within this academic domain is 'legal personality,' which denotes the recognised capacity of an entity to bear legal rights and obligations.¹ Traditionally, analytical jurisprudence viewed legal personality as a strict, formal construct granted selectively by the sovereign. However, the importance of legal personality transforms significantly under sociological jurisprudence. Rather than remaining a mere technical categorisation, legal personality becomes an active tool for social engineering. The sociological school evaluates who or what should possess legal rights based on societal needs. By doing so, it expands the umbrella of legal protection to marginalised communities, labour collectives, and even environmental entities to achieve social equilibrium.²

This article examines the theoretical premises of sociological jurisprudence and their practical adaptation in the Indian legal system. It has gained importance because in the past the fixed positivist structure of law proved inefficient to deal with the dynamic nature and vast nature of developing Indian society and this sociological school of thought explaining law not as a rigid system of law but as a science of man and the social factors and thus, it is the sociological jurisprudence which fills the gap between a static law and changing substantial justice by making the judiciary to interpret the legislation in accordance with the changing social interests. The primary research objectives of this paper are twofold. The first objective is to critically examine the principles of sociological jurisprudence, especially the principles regarding the reconciliation of interests, and the second is to explore the extent to which these theories have affected the thinking of the Indian lawyers and the extent to which these principles have been carried out by the interpretation of the constitutional provision and its subsequent judicial review.

VARIOUS ASPECTS OF LAW: THE SOCIOLOGICAL SCHOOL

Core Theories: The school of sociological jurisprudence is a reaction against the rigid dogmatism of analytical and historical schools of jurisprudence. At its core, the school argues

¹ Patrick John Fitzgerald, *Salmond on Jurisprudence* (12th edn, Sweet & Maxwell 1966)

² Roscoe Pound, *JURISPRUDENCE* (The Lawbook Exchange, Ltd 2000)

that law is not an independent logical system but a social phenomenon and should be investigated in its societal context. Several prominent jurists shaped this pragmatic approach.

Rudolf von Ihering laid the foundation by defining law as an instrument to serve societal needs, famously describing it as an end. He shifted the jurisprudential focus from individual will to the protection of social interests, arguing that the state must compel individuals to align their private interests with the broader social good.³

Expanding on the societal origin of law, **Eugen Ehrlich** introduced the concept of the 'living law' (lebendes Recht). Ehrlich contended that the true centre of legal development lies not in legislation or judicial decisions, but in society itself.⁴ He distinguished between the formal law enacted by the state and the actual norms that govern daily human behaviour, arguing that formal law is only effective when it mirrors the living law of the community.

Leon Duguit further developed the sociological perspective through his doctrine of 'social solidarity.' Writing in the context of a complex industrial society, Duguit observed that human beings are fundamentally interdependent. He posited that the primary function of law is to promote and safeguard this social cohesion. Consequently, Duguit rejected the traditional concept of sovereign rights, arguing that the state possesses only duties to perform public services that maintain social solidarity.⁵

However, the most comprehensive framework within sociological jurisprudence was formulated by Roscoe Pound. Pound conceptualised law as a specialised form of 'social engineering.' He argued that the primary task of the legal system is to build an efficient structure of society by satisfying the maximum number of human desires with the minimum amount of friction and waste.⁶ To achieve this, Pound classified competing claims into individual, public, and social interests, urging lawmakers and judges to constantly balance these interests to achieve social harmony.

Pound's theory operates within the bounds of a systematic and analytical approach. This theory assumes that the law (and therefore the judge as the judge- interpreter of law) is an

³ V D Mahajan, *JURISPRUDENCE AND LEGAL THEORY* (6th edn, Eastern Book Company 2022)

⁴ Eugen Ehrlich et al., *Fundamental Principles of the Sociology of Law* (1st edn, Transaction Pub 2001)

⁵ Leon Duguit and Frida And Harold Laski, *Law In The Modern State* (1919) (Kessinger Publishing 2008)

⁶ Roscoe Pound, 'A SURVEY OF SOCIAL INTERESTS' (1943) 57(1) *Harvard Law Review*

<<https://www.jstor.org/stable/1334970>> accessed 15 April 2026

intended arbiter. As society is perceived as an organism with conflicting interests, he maintained that the judge has to go beyond the literal application of laws and weigh the outcome of the judicial decisions upon society at large. It is this balancing act of interests that compels judges to assess the 'social value of each interest' and decide which of them would lead to collective progress while not denying certain essential interests of individuals. Critics are quick to point out that since the model of Pound, in its very foundation, relies on the subjective discretion to define 'social harmony', it grants an enormous space for discretion to the judges, which can even blur the distinction between the task of applying law and of legislating law. Nevertheless, his theory occupies an important space in the modern Indian judicial system and is the conceptual bedrock on which a court could even proceed to decide on the socio-economic field on the grounds of 'substantive justice'.

Critical Analysis: While sociological jurisprudence provides a highly pragmatic framework for addressing modern societal challenges, it is not immune to critical scrutiny. The primary vulnerability of this school lies in its inherent subjectivity. Concepts such as 'social solidarity' and 'social interests' lack precise legal definitions. This ambiguity raises a fundamental constitutional question regarding who possesses the legitimate authority to determine what constitutes the social good.

Furthermore, Pound's metaphor of 'social engineering' has been criticised for being overly mechanical. Viewing society as a factory and the law as a mere balancing mechanism risks reducing individuals to cogs within a utilitarian machine, potentially compromising fundamental human rights in the pursuit of majoritarian social interests. Additionally, Ehrlich's absolute reliance on the 'living law' can be problematic in a progressive constitutional democracy. If formal law merely reflects existing societal norms, it loses its capacity to eradicate regressive social practices and drive necessary social reform.⁷ Therefore, a strictly sociological approach must be tempered by constitutional morality to ensure that the pursuit of social interests does not override fundamental constitutional guarantees.

⁷ Julius Stone, *The Province and Function of Law: A Study in Jurisprudence* (Universal Law Publishing Co Ltd 2006)

APPLICATION IN INDIAN LAW

The Constitutional Framework: The Constitution of India is the culmination of sociological jurisprudence. The drafters were effective social engineers; they were the taskmasters entrusted with the responsibility of unifying a fundamentally divided society in transit from being a colony to a democratic republic. This sociological intent is most evident in the structural harmony between Part III, which guarantees individual Fundamental Rights, and Part IV, which outlines the Directive Principles of State Policy. While traditional analytical jurisprudence might view these sections as conflicting, the sociological approach demands their harmonious construction to balance individual liberties with collective societal welfare.⁸ The express mandate under Article 38 of the Constitution states that, ‘The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic, and political, shall inform all the institutions of national life’.⁹ This very wording accurately reflects Roscoe Pound's theory of effecting a maximum satisfaction of social interests with a minimum of conflict.

Judicial Interpretation and Social Engineering: The Supreme Court of India has, in a significant manner, institutionalised sociological jurisprudence, translating abstract constitutionalism into a tangible living document, enabling the same to respond to a perpetually changing social reality. This can most notably be seen in the broad application of Article 21, as well as in the evolution of Public Interest litigation.

In *Olga Tellis v Bombay Municipal Corp.*, the Supreme Court confronted the eviction of pavement dwellers in Mumbai.¹⁰ Instead of applying a rigid positivist interpretation of municipal laws regarding trespass, the Court adopted a sociological lens. It expanded the definition of the ‘right to life’ under Article 21 to include the ‘right to livelihood.’ By acknowledging the socio-economic compulsions that force rural migration to urban slums, the judiciary engaged in classic social engineering, balancing the public interest in maintaining clear pedestrian pathways against the fundamental human need for survival.

Furthermore, the dilution of the traditional rule of locus standi marks a direct application of Leon Duguit’s concept of social solidarity. In *S.P. Gupta v Union of India*, the Court held that

⁸ *Minerva Mills Ltd & Ors v Union of India & Ors* (1980) 3 SCC 625

⁹ The Constitution of India 1950, art 38

¹⁰ *Olga Tellis & Ors v Bombay Municipal Corp & Ors Etc* (1985) 3 SCC 545

any public-spirited individual or organisation could approach the constitutional courts on behalf of marginalised communities who cannot seek legal redress themselves.¹¹ This procedural innovation effectively democratized access to justice, ensuring that the legal system responds to the collective social conscience rather than remaining a closed arena for individual adversarial disputes.

The Indian judiciary has also demonstrated a profound commitment to Eugen Ehrlich's concept of the 'living law' by discarding outdated colonial legislation that no longer aligns with contemporary societal values. The landmark judgment in *Navtej Singh Johar v Union of India* serves as a prime example. In decriminalising consensual homosexual acts by reading down Section 377 of the Indian Penal Code,¹² the Court explicitly recognised that law must evolve alongside changing societal norms. The bench prioritised transformative constitutional morality over static Victorian-era morality, acknowledging that the formal law must reflect the inclusive living law of a modern democratic society.¹³

Similarly, the Supreme Court has utilised sociological principles to formulate new substantive doctrines in environmental law. In *M.C. Mehta v Union of India* (the Oleum Gas Leak case), the Court concluded that the 19th-century English rule of strict liability established in *Rylands v Fletcher* was grossly inadequate to protect the social interests of a rapidly industrialising Indian society. Consequently, the Court engineered the principle of 'absolute liability,' stripping away traditional defences for hazardous industries to ensure that corporate enterprises bear the complete social cost of their activities.¹⁴ Through these jurisprudential innovations, Indian law has successfully transcended strict analytical boundaries, utilising the sociological approach to dispense substantive socio-economic justice.

CRITICAL ANALYSIS

Evaluation of Existing Circumstances: There is no question that the entry of sociological jurisprudence in Indian legal thought has revolutionised the administration of justice in the country. The Indian judiciary, through its preference for socio-economic substance over

¹¹ *S P Gupta v President of India & Ors* (1982) 2 SCR 365

¹² *Navtej Singh Johar & Ors v Union of India Thr Secretary Ministry of Law and Justice* (2018) 10 SCC 1

¹³ *M C Mehta & Anr v Union of India & Ors* (1987) 1 SCC 395

¹⁴ *Justice K S Puttaswamy (Retd) & Anr v Union of India & Ors* (2017) 10 SCC 1

procedural technicalities, has used Pound's notion of social engineering as a mechanism of rights protection of the weakest in society. Public interest litigation has democratized access to the constitutional courts, making litigation an accessible vehicle for non-traditional litigants to advocate for the rights of the downtrodden.

However, the existing framework of law shows an inordinate strain. The major drawback is the implementation of judgments. The Supreme Court passes several far-sighted and socio-legally oriented judgments, but the executive arm fails to comply due to capacity or lack of political will. Thus, there persists the gap between 'law in books' and 'law in action'. Several progressive and socially motivated judgments of the court translate into mere declarations and are unimplemented due to this inherent failing. Further, the lack of supervision over the administrative implementation of judgments by the courts once the case is disposed of exacerbates this problem.

Another critical aspect is that by addressing every socio-economic issue through the courts, the bench often appears 'politicised' as it ends up performing the functions of the legislature. In those cases where the court issues directions without taking cognisance of budget and bureaucracy constraints of the executive, the pronouncements do not trickle down in rural and urban India. This clearly exposes a basic flaw with Pound's approach; it is able to furnish the philosophical premise for change, but lacks mechanisms to effect institutional compliance. To close the gulf, it is suggested that the Indian legal system should switch to a cooperative mechanism where the judiciary is able to affirm constitutional norms by aiding executive action through committees and timed deadlines, rather than abstract declarations alone, which do not seem adequate in overcoming executive administrative governance.

Emerging Challenges: The most prominent contemporary challenge in applying the sociological approach is the difficulty of separating judicial activism from unconstitutional judicial overreach. When unappointed judges begin extensively implementing social engineering, they seem to have encroached on the function of the legislature, a violation of the doctrine of separation of powers under the Constitution. Social interest is a subjective matter; what a particular bench of judges considers as a social imperative that has to be administered through social engineering could well be seen as interference in the work of the executive by another court of law. Again, the courts cannot possibly be equipped with the means of determining macroeconomic impacts of their sociological remedies. Courts lack the

apparatus for investigation and are not suited for complex cost-benefit analyses in the same way a legislative body would be; well-intended, socio-centric interventions might harm other economic spheres or unduly burden the State's operational capacities.

With the quick pace of technological change, new dimensions have emerged in applying sociological Jurisprudence in contemporary India, to the extent that the concept of the 'living law' is now being tested as never before in the Indian context. Digital privacy and artificial intelligence, along with the advent of the gig economy, have created an area where the statutory law lags significantly behind real social transformation. While it's difficult to clearly fit the sociological concept of labour relations into the framework of an employer-employee dichotomous structure that guarantees social solidarity, the traditional concepts have been challenged by the introduction of the gig economy. Platform workers currently do not have a clear legal standing or sufficient protection from the law, with no social security or rights to collective bargaining.

Likewise, Artificial Intelligence introduces issues that require fundamental reassessment of legal concepts—from legal personality and liability of algorithms to recognition of rights in the age of advanced technology; the concept that formal law must conform to the 'living law' as envisioned by Eugen Ehrlich seems to falter when the living law evolves at breakneck speed and both legislative and judicial systems are unable to keep pace, resulting in the capacity of the Indian legal framework to maintain social equilibrium in the twenty-first century.

Suggested Legal Reforms: To address such inherent systemic problems, the Indian legal system needs a reformist approach comprising legislative foresight, judicial discipline, and pedagogical change.

Firstly, the legislature needs to institutionalise pre-legislative sociological impact assessments. Before drafting a law, a collection of empirical data on the 'living law' and society would allow Parliament to consciously engage in social engineering so that there would be less for the judiciary to remedy retroactively. From such an approach, the role of a lawmaker will transform from a retrospective curer of law's flaws to a pro-active creator of laws which are socially rooted rather than abstract legal positivists in their conception.

Secondly, a regime of 'principled' judicial self-restraint must be fostered by the judiciary. Though the duty of constitutional courts in protecting the fundamental rights is paramount, they should carve 'principled and conceptual' limits around themselves to avoid being accused of arbitrary law-making. This involves a change of judicial posture in law schools where, rather than courts framing administrative guidelines themselves, the executive could be directed to prepare them, upholding the 'separation of powers' as per the constitution and avoiding an 'unconstitutional over-reach'.

Lastly, legal education in India needs to be suffused with empirical sociological research so that the future jurist can bridge the 'conceptual divide' between the formal law and its living manifestation. Students would need to be taught various methods of socio-legal research, ranging from field surveys to statistical analysis of the impacts of the law. Thus, through a legal education which emphasises the 'living law,' the next generation of jurists would be better equipped to deal with the demands of modern, digitised, and complex society.

CONCLUSION

Sociological jurisprudence has been the philosophical backbone for the development of the modern Indian constitution. Moving away from the mechanical and inert form of analytical positivism, Indian courts have adopted a pragmatic stance, and law is viewed as an essential tool for social change. Theories by Pound, Duguit, Ehrlich, etc. have been well-indigenised for the Indian socio-economic condition, but for the successful operation of the legal system, a continuous recalibration of a harmonious balance between the social engineering factor and constitutional rigidity is required. The survival and importance of Indian law in the long run are thus contingent upon its capacity to continuously adapt and respond to the evolving social consciousness of the people.