

# **LAW AS AN INSTRUMENT OF** **SOCIAL ENGINEERING**

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## **ABSTRACT:**

The relation between an individual, society and the state have been changing from time to time and so various theories regarding the same has been propounded by different jurists. The human wants have only been increasing and hence leading to the realization of balancing between the human wants and the welfare of the society. The balancing of both the concept is known as social engineering whose aim is to build up the society by satisfying of maximum wants with minimal usage of resources. The paper will talk about three types of interest namely the private, public and social interest, further talking about the postulates propounded by Roscoe Pound and stating the criticism that his postulates faced.

## **INTRODUCTION:**

The relations between the individual, society and the state have been changing from time to time and various theories have been propounded by various persons from time to time. Law plays a very important role in the life of an individual. Law has been changed and modified from time to time. In the beginning society was governed by customs and after that supremacy of the priests and after that secular state came into existence and it has been dominated by the institutions. They were political changes and revolutions. Human wants has been increased .The necessity of balancing the human wants and welfare of the society has been realized. Every human want

cannot be fulfilled. It is impossible to fulfill all the human wants and desires. These wants and desires have been termed as an interest.<sup>1i</sup>

When the secular state came into existence they were revolutions, political changes. Actually society and human life always go hand in hand. Every human being has its or her own desire but it is impossible to fulfill all the desires of the human beings. So to balance both the things a concept came into existence which is known as social engineering which is given by Roscoe Pound.

### LAW:

Law is a set of rules and regulations which is used to for regulating the society and as well as stating what to do, what not to do and how to do it. It only provides fundamental rights but also protection and equality towards every human being .every nation has its own law and it should be followed by everyone, if it is not followed then they should be punished under the law.

Law is very important to society because it keeps the society running and it also acts guidelines as to what to be accepted in the society. If law wouldn't be there then there will no police, government and more crimes will occur. They will be a monarchy system and as well as society would break down. There will be no occur and the society will break down.<sup>2ii</sup>

### ROSCOE POUND:

His full name is Nathan Roscoe Pound. He was born on October 27, 1870 Lincoln, Nebraska, US and died on July 1<sup>st</sup> 1964 Cambridge Massachusetts. He was an American jurist, botanist and educator and chief advocate of sociological jurisprudence and he was a leader I the reform of the court and administration in the United States. The Journal of Legal Studies has identified pound is one of the most cited legal scholars in the 20<sup>th</sup> century. He was famous for his theory of social engineering. He gave theory of interests which describes the law as social engineering.

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<sup>1</sup>Shubham Kumar, What is social engineering iBlog pleaders, <http://www.iblogpleaders.com> (last visited Nov 4, 2019)

<sup>2</sup> Mohd. Aquib Aslam, Jurisprudence, nature and source of law, legalserviceindia, <http://www.legalserviceindia.com> (last visited Nov 4, 2019)

As we know society and human life always goes hand in hand. From children to old people every person has his own desire. The desires and claims have been termed as interests. It is impossible to fulfill all the desires of the human beings. So in order to fulfill any of these things Social Engineering was emerged and coined by Roscoe Pound. Social Engineering states that the theory of laws are created to shape the society and also to regulate the people's behavior. According to Pound he stated that law is social engineering which means a balance between competing interests in the society.<sup>3iii</sup>

### THEORY OF SOCIAL ENGINEERING:

Social Engineering it has been termed as engineering because pound compared the work of the lawyers to the engineers. Actually the work of engineers is to produce finished products into the society which is based on continuous experimentation and experience. In the same way the aim of social engineering is to build up the society by satisfying of maximum wants with minimum usage of resources. It involves the balancing of competing interests.

The first word social which means a group of people forming a society. The second word states that engineers to produce finished goods based on continuous experimentation and experimentation to get the finished product by means of an instrument or device. He classified the interests into three types:<sup>4iv</sup>

- Private interest.
- Public interest.
- Social interest.

### PRIVATE INTEREST:

It is also known as individual interest. According to pound it is defines as claims or desires or demands from the point of the individual .individual interest includes:<sup>5v</sup>

- Personality
- Domestic relations.

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<sup>3</sup>Harsh Agarwal, Law as an instrument of Social Engineering, <http://www.slideshare.net> (last visited Nov 4, 2019)

<sup>4</sup>V D Mahajan, Jurisprudence and legal theory, page no 547, Eastern book companies, Lucknow.

<sup>5</sup>R W N Dias, jurisprudence, Aditya book private ltd, 5th edition, 1994.

- Interest of substance.

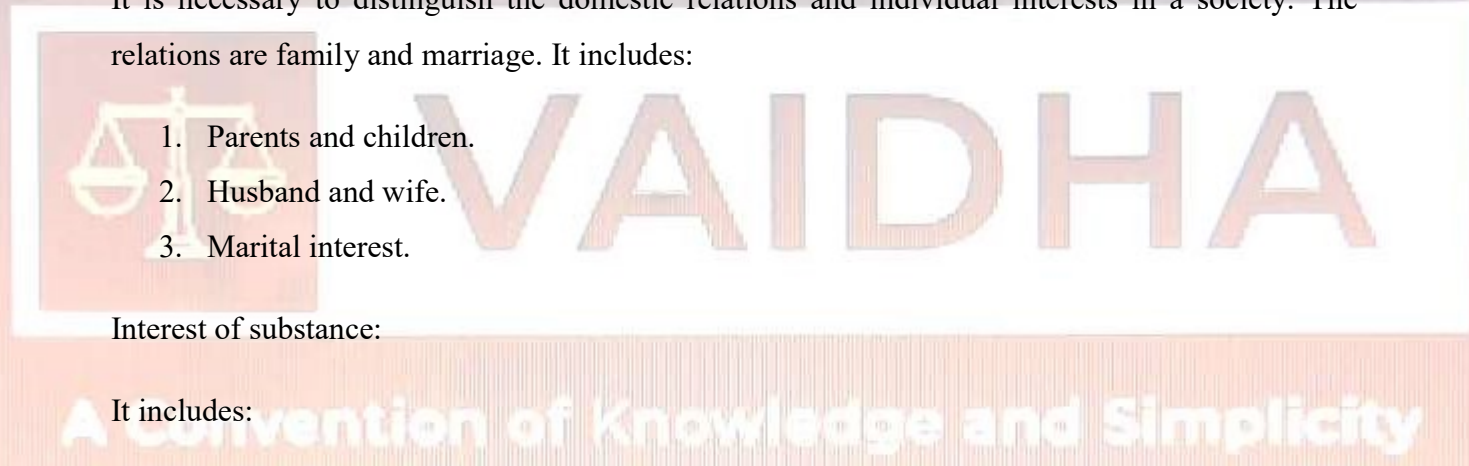
Personality:

It states about the:

1. The physical person.
2. Freedom of will.
3. Honor and reputation.
4. Privacy and sensibilities.
5. Belief and opinion.

Domestic relation:

It is necessary to distinguish the domestic relations and individual interests in a society. The relations are family and marriage. It includes:

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1. Parents and children.
  2. Husband and wife.
  3. Marital interest.

Interest of substance:

It includes:

1. Interest of property.
2. Succession and testamentary disposition.
3. Freedom of industry and contract.
4. Promised advantages.
5. Advantages of relation with others.
6. Freedom of association.
7. Continuity of employment.

PUBLIC INTEREST:

According to Pound, claims and desires at point of life in politically organized society. It includes:<sup>6vi</sup>

- Interest of state as a juristic person.
- Interest of state as a guardian of social interest.

Interest of state as a juristic person:

It includes interest of state as a juristic person that is protection, claims of the politically organized society as a corporation to property acquired and held for corporate purposes.

Interest of state as a guardian of social interest:

It states that superintendence and administration of trusts, charitable endowments, protection of natural environment, territorial waters, seashores, regulation of public employment and so on and make use of things which are open to public use.

#### SOCIAL INTERESTS:

They are claims, desires; demands thought of in terms of social life and generalized claims of social groups. It includes:

1. Social interest in general security.
2. Social interest in security of social institutions.
3. Social interest in general morals.
4. Social interests in conservation of social resources.
5. Social interest in general progress.
6. Social interest individual life.

Social interest in general security:

It includes those branches in law which relate to:

- General safety
- General health
- Peace and order

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<sup>6vi</sup> V D Mahajan, Jurisprudence and legal theory page no 549, Eastern Book Companies, Lucknow



- Security of acquisitions
- Security of transactions.

Social interest in the security of social institutions:

Social interest includes security of the social institution which includes:<sup>7vii</sup>

- General security of domestic institutions.
- Religious institutions, political institutional
- Economic institutions.

Social interest in general morals;

It states that social morals comprises of prevention and prohibition of prostitution, gambling, drunkenness etc.

Social interest in conservation of social resources:

It includes conservation of social resources and protection of training of dependents and defectives that is conservation of human resources, protective and human resources, education of defectives and dependents, reformation of delinquents, protection of economically dependents.

Social interest in general progress:

It consists of three aspects i.e. economic, political, cultural progress.

- Economic progress: it covers freedom of use, sale of property, free trade, free industry and encouragement of inventions by the grant of patents.
- Political progress: it covers free speech and free association, free opinion, free criticisms.
- Cultural progress: it covers free science, free letters, encouragement of arts and letters, encouragement of higher education at learning and aesthetics.<sup>8viii</sup>

Social interest individual life:

It says that every individual has a right to live a human according to the individuals.

<sup>7</sup>R W N Dias jurisprudence, Aditya Book Private Ltd, 5th edition, 1994.

<sup>8</sup>Manmeet Singh, Sociological Jurisprudence, <http://www.legalserviceindia.com> (last visited Nov 4, 2019)

- Physical life
- Political life
- Economic life
- Social life
- Cultural life.

#### JURAL POSTULATES BY ROSCOE POUND:

The problem lies where that is between the evaluation and balancing of these interests. To clear this Roscoe Pound came up with some rules called as jural postulates. In 1919, he summarized all the points into four postulates. Every individual in civilized society must be able to take it for granted:

1. He can appropriate for his own use what he has created by his own labor and what he has acquired under the existing economic order.<sup>9ix</sup>
2. Those others will not commit any intentional aggression upon him.
3. That others will act with due care and will not cost him with an unreasonable risk of injury.
4. That the people with whom he deals will carry out their undertakings and act in good faith.

In 1942 he added three more postulates:

1. That he should security as a job holder
2. That society should bear the burden of supporting him when he becomes aged.
3. That society as a whole will bear all the risk of unforeseen misfortunes such as disablement.

The jural postulates to be applied both by the legislators and the judges for both evaluating and balancing the various interests and harmonizing them.

#### CRITICISM:

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<sup>9</sup>KORE, G. R., Roscoe Pound on sociological jurisprudence, <http://www.grkarelawlibrary.yolasite.com> (last visited Apr 4, 2020)

- The division of public and private interests is criticism on the ground that in fact they are all social interest.
- What to waste and friction mean in relation to conflict of interest is not been explained.
- With laws there can be no detailed plans as the society keeps changing constantly.
- Dias said that interests should not be weighed against each other there should be some differences between them.
- He was mainly criticized by the tem engineering.

### CONCLUSION:

It is concluded that law plays a very important role in adjusting the conflict of interest. Both the social and individual interest co-exists. Both of them have same equal priority. Pound has given the idea of social engineering for the American society but it has been followed by worldwide. Even India has also followed it in forming a social welfare. Both judiciary and legislatures play important role in making the fulfillment of various desires of human beings. So for these new policies, new strategies were applied and have been developed.

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### REFERENCE

- i Shubham Kumar, what is social engineering? [www.blog.ipleaders.in](http://www.blog.ipleaders.in), accessed on November 4<sup>th</sup> 2019.
- ii Mohd. Aqib Aslam, jurisprudence, nature and source of law, [www.legalservicesindia.com](http://www.legalservicesindia.com), accessed on November 4<sup>th</sup> 2019.
- iii Harsh Agarwal, law as an instrument of social engineering, [www.slideshare.net](http://www.slideshare.net), accessed on November 4<sup>th</sup> 2019.
- iv V D Mahajan, Jurisprudence and legal theory, page no 547, Eastern book companies, Lucknow.
- v R W N Dias, jurisprudence, Aditya book private ltd, 5th edition, 1994.
- vi V D Mahajan, jurisprudence and legal theory page no 549, eastern book companies, Lucknow.



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<sup>vii</sup>R W N Dias jurisprudence, Aditya book private ltd, 5th edition, 1994.

<sup>viii</sup>Manmeet Singh sociological jurisprudence, [www.legalservicesindia.com](http://www.legalservicesindia.com), accessed on November 4<sup>th</sup> 2019.

<sup>ix</sup>GovindRamnath kore, roscoe pound on sociological jurisprudence, [www.grkarelawlibrary.yolasite.com](http://www.grkarelawlibrary.yolasite.com), accessed on April 4<sup>th</sup> 2020.



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