INDIAN JOURNAL OF LEGAL REVIEW

VOLUME 5 AND ISSUE 13 OF 2025

INSTITUTE OF LEGAL EDUCATION

INDIAN JOURNAL OF LEGAL REVIEW

APIS – 3920 – 0001 | ISSN - 2583-2344

(Open Access Journal)

Journal's Home Page – https://ijlr.iledu.in/

Journal's Editorial Page - https://ijlr.iledu.in/editorial-board/

Volume 5 and Issue 13 of 2025 (Access Full Issue on - https://ijlr.iledu.in/volume-5-and-issue-13-of-2025/)

Publisher

Prasanna S,

Chairman of Institute of Legal Education

No. 08, Arul Nagar, Seera Thoppu,

Maudhanda Kurichi, Srirangam,

Tiruchirappalli – 620102

Phone : +91 73059 14348 - info@iledu.in / Chairman@iledu.in

INDIAN JOURNAL OF LEGAL REVIEW [IJLR – IF SCORE – 7.58]

VOLUME 5 AND ISSUE 13 OF 2025

APIS – 3920 - 0001 *(and)* ISSN - 2583-2344

Published by

Institute of Legal Education

https://iledu.in

POWER, INEQUALITY, AND THE LAW: A SOCIOLOGICAL PERSPECTIVE ON LEGAL SYSTEMS

AUTHOR - SIJAL SHRIYA, M.A SOCIOLOGY STUDENT AT VASANTA COLLEGE FOR WOMEN, BHU

BEST CITATION - SIJAL SHRIYA, POWER, INEQUALITY, AND THE LAW: A SOCIOLOGICAL PERSPECTIVE ON LEGAL SYSTEMS, *INDIAN JOURNAL OF LEGAL REVIEW (IJLR),* 5 (13) OF 2025, PG. 570-574, APIS – 3920 – 0001 & ISSN - 2583-2344.

Abstract

This article provides a sociological critique of the law, challenging the classical liberal ideal of justice as an impartial and neutral arbiter. From a sociological perspective, the law is presented not as a transcendent set of rules, but as a dynamic, human institution that is deeply embedded within society. The article argues that the law is fundamentally entangled with the distribution of power and is a primary mechanism through which social inequalities are structured, maintained, and legitimized. It explores this argument by contrasting foundational functionalist theories, which view law as a tool for social solidarity, with conflict theories, which see law as an instrument of the dominant class. The analysis further deconstructs legal neutrality by examining critical theories, including Critical Legal Studies (CLS), Feminist Jurisprudence, and Critical Race Theory (CRT), as well as the concept of intersectionality. The article also investigates the practical mechanisms of inequality in the "law in action," such as differential access to justice and the discretion of legal actors. Finally, it concludes by framing the law as a "double-edged sword": while it serves as a tool of power, it is also a crucial site of social struggle and a vital tool for legal mobilization and resistance.

Keywords - Sociology of Law, Power and Inequality, Legal Neutrality, Conflict Theory, Critical Legal Studies (CLS), Feminist Jurisprudence, Critical Race Theory (CRT), Intersectionality, Access to Justice, Legal Mobilization

Introduction

In the symbolic iconography of justice, the law is almost universally represented by Lady Justice, who wears a blindfold. This blindfold is a powerful metaphor, embodying the ideal that justice is, or at least should be, impartial, objective, and blind to the power, wealth, or status of those who come before it. The law, in this classical liberal tradition, is envisioned as a neutral referee, a set of transcendent rules that stand above the fray of social and political life, ensuring order and fairness.

A sociological perspective, however, politely asks to lift the blindfold. When we do, we do not see a transcendent set of neutral principles. Instead, we see a human institution—a dynamic, contested, and deeply social field. From this viewpoint, the law is not above society; it is within it. It is a product of social conflicts, a reflection of cultural norms, and, most critically, both an instrument of social power and a site of social struggle.

This article will explore the complex relationship between power, inequality, and the legal system from a sociological standpoint. It will argue that far from being a neutral arbiter, the law is fundamentally entangled with the distribution of power. It is a primary mechanism through which social inequalities are structured, maintained, and legitimized. Yet, it is also a crucial arena where those same inequalities are challenged, debated, and sometimes transformed. To understand the law, we must understand the social forces that create it, wield it, and resist it.

INDIAN JOURNAL OF LEGAL REVIEW [IJLR – IF SCORE – 7.58]

VOLUME 5 AND ISSUE 13 OF 2025

APIS – 3920 - 0001 *(and)* ISSN - 2583-2344

Published by

Institute of Legal Education

https://iledu.in

The Foundational Dualism: Order vs. Control

Sociological thought on the law is broadly split between two foundational perspectives: consensus (or functionalist) theories and conflict theories.

The Functionalist View: Law as Social Cement

The functionalist perspective, rooted in the work of Émile Durkheim, sees law as an expression of the "collective conscience"—the shared values, beliefs, and moral attitudes that operate as a unifying force within society. In this view, law's primary function is to maintain social solidarity and integration.

Durkheim distinguished between two types of law that correspond to two types of social solidarity. In simple, traditional societies (mechanical solidarity), law is repressive, swiftly and harshly punishing any deviation that offends the strong collective conscience. In complex, modern industrial societies (organic solidarity), law becomes restitutive. It focuses less on moral punishment and more on regulation and restoration, managing the complex interdependencies between specialized social roles (e.g., contract law, administrative law).

For functionalists, a crime is not a crime because it is inherently wrong; it is "wrong" because it shocks the collective conscience. The law's function, then, is to articulate these shared boundaries. In this model, the law serves everyone by maintaining social order, resolving disputes, and providing a predictable framework for social life. Inequality is a peripheral issue, addressed only insofar as it might (or might not) disrupt social functioning.

The Conflict View: Law as an Instrument of Power

The conflict perspective, tracing its lineage to Karl Marx, offers a starkly different analysis. Marx viewed the law, along with the state, religion, and culture, as part of a "superstructure" built upon the "economic base" of society—the means and relations of production.

From a Marxist viewpoint, the law is not an expression of the collective will; it is an instrument of the dominant economic class (the bourgeoisie) used to protect its property, maintain its power, and manage the exploitation of the subordinate class (the proletariat). The law's apparent neutrality is a sham, an ideological cloak that makes class domination appear as "the rule of law."

Classic historical examples support this view. Sociologist William Chambliss's study of the origins of vagrancy laws in feudal England found they were not created to manage "idleness" but were specifically enacted after the Black Plague to force surviving laborers, now in high demand, to work for low, pre-plague wages. Similarly, laws criminalizing "poaching" transformed a traditional right (foraging in the common forest) into a crime against the new, private property interests of the landed aristocracy. In this perspective, law does not resolve conflict; it is the institutionalized form of that conflict, with the powerful rigging the rules in their Favor.

Max Weber, while not a simple conflict theorist, added a crucial dimension. He saw law in modern society as defined by its "formal rationality"—a system of abstract, logical, and universally applied rules, administered by a professional bureaucracy. While this rationalization makes law predictable (which is essential for capitalism), Weber warned it also creates an "iron cage." This bureaucracy of rules, while formally neutral, becomes a depersonalized, unassailable form of power. It doesn't care why you can't pay your mortgage; the rules are the rules. Thus, formal equality ("the law applies to all") can coexist with, and even reinforce, profound substantive inequality.

Critical Lenses: Deconstructing Legal Neutrality

Building on the foundation of conflict theory, several "critical" schools of thought have emerged to provide more nuanced analyses of how law intersects with power beyond just economic class.

INDIAN JOURNAL OF LEGAL REVIEW [IJLR – IF SCORE – 7.58]

VOLUME 5 AND ISSUE 13 OF 2025

APIS – 3920 - 0001 *(and)* ISSN - 2583-2344

Published by

Institute of Legal Education

https://iledu.in

Critical Legal Studies (CLS)

Emerging in the 1970s, the Critical Legal Studies (CLS) movement directly attacked the core liberal premise of law's neutrality. CLS scholars argue that law is not a coherent, logical system of rules but is "indeterminate"—it is a messy, contradictory collection of political and social compromises, dressed up in legal language.

Because law is indeterminate, any judicial decision is ultimately a political or personal choice, not a logical deduction. Judges, despite their claims to neutrality, are simply enacting their own biases and the biases of the elite strata from which they come. The "rule of law," in the CLS view, is a sophisticated form of ideology. It legitimizes the status quo by making existing power structures (e.g., corporate power, property distribution) seem natural, necessary, and the result of "fair" procedures, rather than the outcomes of raw political struggle they truly are.

Feminist Jurisprudence

Feminist legal theory critiques the law as a fundamentally patriarchal institution. It argues that the legal system was built by men, reflects a male worldview, and systemically disadvantages women and other marginalized genders.

This critique operates on multiple levels:

Explicit Bias: Laws that historically barred women from voting, owning property, or entering certain professions.

Implicit Bias: The "reasonable man" standard in tort or criminal law. Feminist scholars ask, "What about a 'reasonable woman'?" They point out that legal standards for self-defence, for example, were often based on a male model (a fight between two men of equal strength) and failed to account for the experiences of battered women.

Structural Bias: The law's traditional distinction between the "public" sphere (work, politics, governed by law) and the "private" sphere (the home, family, largely left unregulated). Feminist critics argue this public/private split served to hide and protect domestic violence, marital rape, and the exploitation of unpaid domestic labour, framing them as "family matters" rather than legal problems.

Critical Race Theory (CRT)

Critical Race Theory (CRT) applies a similar lens to race. It begins with the premise that race is a social construction, not a biological reality, and that racism is not merely a product of individual prejudice but is systemic and institutionalized through the legal system. CRT scholars argue that law has been a primary tool in creating and maintaining white supremacy and racial hierarchy. Obvious examples include laws enforcing slavery and segregation (Jim Crow). However, CRT's more powerful critique is aimed at modern, "facially neutral" laws that continue to produce racially disparate outcomes.

A classic example is the disparity in sentencing for crack cocaine versus powder cocaine in the United States. A 1986 law mandated the same minimum sentence for 5 grams of crack (more common in poor, Black communities) as for 500 grams of powder cocaine (more common among affluent, white users). The law never mentioned race, but its effect was profoundly racist, contributing to the mass incarceration of Black Americans. For CRT, "colour-blind" law is not the solution; it is part of the problem, as it ignores the real-world impact of laws on racially marginalized communities.

Intersectionality, coined by legal scholar Kimberlé Crenshaw, intersectionality provides a vital synthesis of these critical theories. Crenshaw observed that the law often failed plaintiffs who were at the "intersection" of multiple forms of oppression.

In the DeGraffenreid v. General Motors case, a group of Black women sued the company for discrimination. The company showed it hired white women (in its office) and Black men (on its factory floor), so the court dismissed the suit, seeing no evidence of either race discrimination or sex discrimination. The court was

INDIAN JOURNAL OF LEGAL REVIEW [IJLR – IF SCORE – 7.58]

VOLUME 5 AND ISSUE 13 OF 2025

APIS – 3920 - 0001 *(and)* ISSN - 2583-2344

Published by

Institute of Legal Education

https://iledu.in

conceptually unable to see the specific form of discrimination faced by Black women. Intersectionality argues that we cannot understand inequality by looking at class, race, or gender in isolation. The law, by sorting problems into neat, separate boxes (e.g., "race case" or "gender case"), fundamentally misunderstands and fails to redress the compounded nature of oppression.

The Law in Action: Mechanisms of Inequality

Theory aside, how does the law in practice reproduce inequality? The gap between "law on the books" (the formal rules) and "law in action" (how the legal system actually operates) is vast.

Access to Justice: "Why the 'Haves' Come Out Ahead"

The most glaring mechanism is the differential access to justice. The adversarial legal system runs on resources. Justice is not just blind; it is also expensive. Those with wealth and power—corporations, institutions, and high-net-worth individuals—can afford experienced legal teams, endless appeals, and strategic litigation. Those without resources must rely on overburdened public defenders, legal aid, or, most often, represent themselves.

In his seminal essay, "Why the 'Haves' Come Out Ahead," sociologist Marc Galanter identified the role of "repeat players" versus "one-shooters." "Repeat players" (like insurance companies or large corporations) are in court all the time. They have low stakes in any single case but high stakes in the long-term "rules." They can play for delays, build expertise, and strategically litigate cases they know they can win to create favourable precedents. The "one-shooter" (like an individual injury victim or a tenant fighting eviction) has high stakes in their one-and-only case and no resources to shape the law. The result is a system where the "haves" not only win their individual cases more often but, more importantly, get to shape the law itself in their Favor over time.

The Discretion of Legal Actors

At every stage of the legal process, from the street to the courtroom, human actors exercise discretion. This discretion is a primary channel through which personal and institutional biases reproduce inequality.

Police decide who to stop, who to search, and who to arrest. Studies on "stop-and-frisk" or racial profiling show this discretion is often wielded disproportionately against racial minorities and the poor. Prosecutors have enormous power, deciding whether to charge, what to charge, and what plea bargain to offer. This process, largely hidden from public view, is where many cases are decided, often based on the perceived "respectability" or "blameworthiness" of the victim and defendant.

Judges decide on bail (often trapping poor defendants in jail before trial), rule on evidence, and impose sentences. The same crime can receive vastly different sentences depending on the judge's biases and the social status of the defendant.

This is not necessarily conscious malice. It is often implicit bias—the stereotypes and assumptions that all members of a society internalize. A judge may, without conscious thought, view a well-dressed defendant from a "good family" as having just "made a mistake," while viewing a poorly dressed defendant from a "bad neighbourhood" as a "criminal" who deserves a harsher penalty.

Law as a Site of Struggle: Resistance and Legal Mobilization

This analysis paints a bleak picture, but it is incomplete. A sociological perspective also recognizes that law is not monolithic. Because it is a product of social conflict, it is also an arena for that conflict. The law is not just a tool of power; it is a tool that power must control, and it is a tool that can be captured and used by the marginalized.

This is the concept of legal mobilization. Social movements—from the Civil Rights movement to the women's suffrage movement, from the

INDIAN JOURNAL OF LEGAL REVIEW [IJLR – IF SCORE – 7.58]

VOLUME 5 AND ISSUE 13 OF 2025

APIS – 3920 - 0001 *(and)* ISSN - 2583-2344

Published by

Institute of Legal Education

https://iledu.in

LGBTQ+ rights movement to environmental activists—have consistently used the law as a primary tool for social change.

They use litigation to challenge discriminatory laws and establish new rights (e.g., Brown v. Board of Education in the U.S. to end school segregation; Navtej Singh Johar v. Union of India to decriminalize homosexuality).

They engage in legal advocacy to create new laws, establishing new protections and redistributing resources (e.g., the Vishaka Guidelines in India, which created legal protections against workplace sexual harassment, or the passage of the 73rd and 74th Constitutional Amendments reserving seats for women in local government).

They use the language of law—the language of "rights"—to frame their political demands, giving them a legitimacy and moral force they might otherwise lack.

The law, in this sense, is a double-edged sword. Legal victories can be "co-opted," watered down in implementation, or fail to produce "real-world" change. Winning a "right" on paper is not the same as having the power to exercise it in practice. Nonetheless, these legal struggles matter. They can, and do, alter the distribution of power and resources, offering a formal mechanism for the powerless to challenge the powerful.

Conclusion

A sociological perspective on the law compels us to move beyond the simple, comforting myth of the blindfolded goddess. It demands that we see the law not as a set of abstracts, pre-ordained rules, but as a living, breathing, and deeply human social institution.

The law is a tool of the powerful, used to legitimize and reproduce inequality. It is a system where "haves" consistently come out ahead and where the biases of race, class, and gender are embedded in the very structure of its "neutral" rules. But it is not only that. It is also a field of struggle, a language of claims, and one of the few available levers for challenging those same power structures.

To understand the law sociologically is to hold these two truths in constant, productive tension. Lady Justice's blindfold represents a powerful and necessary ideal—a goal to strive for. But to ever get closer to that ideal, we must first have the courage to lift the blindfold and see the complex, unequal, and power-laden reality of the world we have built, a world that the law both reflects and creates.

Reference

Key Theorists & Works

Chambliss, William J.: Study on the origins of vagrancy laws.

Crenshaw, Kimberlé: Coined "intersectionality"; analysis of DeGraffenreid v. General Motors.

Durkheim, Émile: Functionalist theory of law (collective conscience, mechanical/organic solidarity).

Galanter, Marc: "Why the 'Haves' Come Out Ahead" (repeat players vs. one-shooters).

Marx, Karl: Conflict theory of law (economic base and superstructure).

Weber, Max: Concept of "formal rationality" and the "iron cage."

Key Cases & Laws

Brown v. Board of Education (US)

DeGraffenreid v. General Motors (US)

Navtej Singh Johar v. Union of India (India)

Vishaka Guidelines / Vishaka v. State of Rajasthan (India)

73rd and 74th Constitutional Amendments (India)

US Cocaine Sentencing Laws (1986)