

LAW AND SOCIAL TRANSFORMATION
IN INDIA
LL. M. - I Yr.

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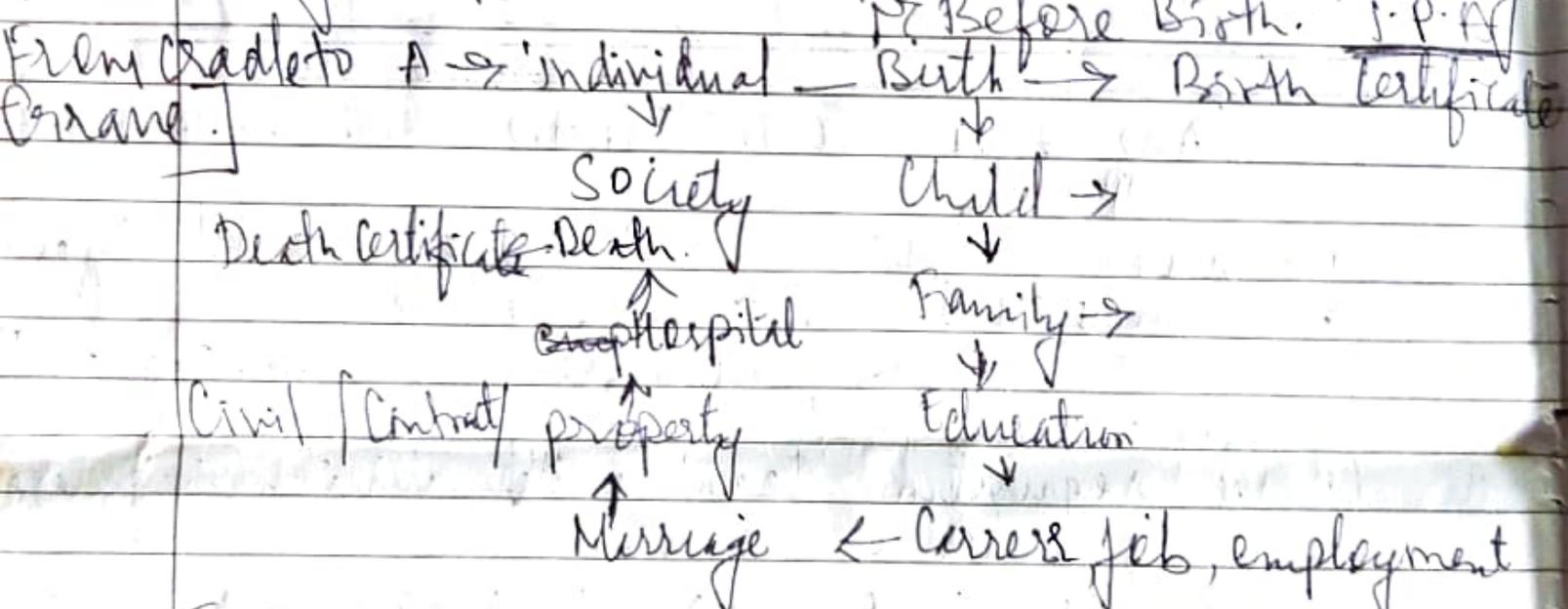
LAW AND SOCIAL TRANSFORMATION IN INDIA
CHP- 1

Introduction → first of all one should know and understand what is law? and its relⁿ with society and how law is connected to social change. Law simply means body of rules, regulation, legal order which regulates social order of human being.

Specifically there are 3 meanings of law -

- (1) What jurists now call the legal order - the regime of adjusting relations and ordering conduct by the systematic and orderly application of the force of a politically organized society.
- (2) The body of authoritative materials, whether judicial or administrative. e.g. law of property, law of contract.
- (3) Mr. Cardozo Justice, called law as a judicial process - the process of determining causes and controversies accⁿ to the authoritative guides or material in order to uphold the legal order foreg. techniques, precept, ideals.

The highest good was the individual's happy life. As the civilization was changing according to changing time, law also had to be changed to achieve peace and order in society. If law would bring happiness and peace in the life of individuals ultimately it would bring happiness and peace in whole society.



Every walk of life an individual comes across various facts of survival and every where there has been law or proper legal order to bring peace and happiness.

If the above 3 meanings can be unified it is by the idea of social control. Human being is a social animal living in society. Society is formation of every individual for happy life. Law is necessary for social control. There are 2 theories relating to law, one may say that law is power. Social control requires power - power to influence behaviour of men through

The presence of their fellow men. The legal order is highly specialized form of social control rests upon the power of a force of politically organized society. But so far as law being power, it is something that organizes and systemizes the exercise of power and makes power effective towards the maintaining and furthering of civilization.

What is the source of authority of legal order? There cannot be a single answer to the quest. In a classical political theory it is the consent, the consent of a free people to be ruled by the Constitution and under it by the laws made by the legislators and administered by officials whom the people have freely chosen. Law may be the combination of force theory, the consent theory and the justice theory.

Interactions of law and social change

Bentham always believed in reforming law for its better efficiency, he devoted great part of his life in drafting codes for a large number of countries. Whether it was civil law / criminal law, evidence or any law his philosophy became very influential as the 19th c progressed. It was Bentham's philosophy which turned British Parliament and other countries into active legislative instruments effecting social reforms in accⁿ to social needs.

The state is the organised power of the community, the power of those who control the machinery. The machinery is controlled by people, individuals and groups, they are themselves to a greater or lesser extent the reprⁿ of the social forces.

Amendments or introduction of new legal remedies there is always some inter-relationship between the state machinery which produces these changes and the social opinion of the community where the state machinery has to operate.

- The inter relation depends upon 2 factors
- (1) type of political system that controls legal action.
 - (2) the type of social interest which is the object of legal regulation.

In a democracy the interplay bet
social opinion and activities relating to
law is more obvious. Public opinion
on vital social issues constantly expresses
itself not only thro' elected representatives
but thro' public discussions in press,
radio, public lectures, press conferences,
pressure groups.

It is not possible in a democratic
system to impose law on a society
which is unaware.

Conclusion - In a democratic system of
state organization there is a great
variety of interactions bet social conditions
and legal change. There may be sudden
demand of a national emergency, for
redistribution of natural resources or a new
standard of social justice. Law has to be
needs law has to play its role law also
has to be rechanneled or changed acc to
changing society. In ancient India the

practise of Sati, Dowry, Prohibition of
widow remarriage, Child marriage,
Untouchability. All these social evil
practices were abolished due to change
in mentality of people living in society.
There are various social legislations
framed to curb the needs of society.
Public opinion plays a major role for
reformation of law. If there is acceptance
of laws society for laws then disobedience
of laws will be on lesser extent and
ultimately there will be creation of a
healthy and welfare society.

- Law as an instrument of social
change.