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Introduction

Welcome to the Indian Journal of Legal Affairs and Research (IJLAR), a distinguished platform dedicated to the dissemination of comprehensive legal scholarship and academic research. Our mission is to foster an environment where legal professionals, academics, and students can collaborate and contribute to the evolving discourse in the field of law. We strive to publish high-quality, peer-reviewed articles that provide insightful analysis, innovative perspectives, and practical solutions to contemporary legal challenges. The IJAR is committed to advancing legal knowledge and practice by bridging the gap between theory and practice.

Preface

The Indian Journal of Legal Affairs and Research is a testament to our unwavering commitment to excellence in legal scholarship. This volume presents a curated selection of articles that reflect the diverse and dynamic nature of legal studies today. Our contributors, ranging from esteemed legal scholars to emerging academics, bring forward a rich tapestry of insights that address critical legal issues and offer novel contributions to the field. We are grateful to our editorial board, reviewers, and authors for their dedication and hard work, which have made this publication possible. It is our hope that this journal will serve as a valuable resource for researchers, practitioners, and policymakers, and will inspire further inquiry and debate within the legal community.

Description

The Indian Journal of Legal Affairs and Research is an academic journal that publishes peer-reviewed articles on a wide range of legal topics. Each issue is designed to provide a platform for legal scholars, practitioners, and students to share their research findings, theoretical explorations, and practical insights. Our journal covers various branches of law, including but not limited to constitutional law, international law, criminal law, commercial law, human rights, and environmental law. We are dedicated to ensuring that the articles published in our journal adhere to the highest standards of academic rigor and contribute meaningfully to the understanding and development of legal theories and practices.

FROM RIGHTS ON PAPER TO RIGHTS IN REALITY: A SOCIO-LEGAL INQUIRY

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“Rights have little meaning on paper unless they are lived, protected, and experienced by every individual in reality.”

-Mahatma Gandhi

Abstract

The formal acknowledgment of rights through constitutions, legislation, and international agreements marks an important milestone in the evolution of legal systems. Nevertheless, the presence of these rights in legal documents does not automatically ensure their practical enjoyment in daily life. This study conducts a socio-legal examination of the ongoing disparity between rights as legally guaranteed and rights as actually experienced by individuals. By analyzing the relationship between law and social realities, the paper demonstrates how factors such as economic disparities, entrenched social hierarchies, institutional inadequacies, and limited legal awareness hinder the effective enforcement of rights. It contends that rights can be truly realized only when legal frameworks are reinforced by broader social reform, institutional responsibility, and active participation of citizens.

Key words:

Socio-legal enquiry, Human rights, Access to justice, Legal implementation, Social inequality, Institutional accountability, Legal awareness

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1. Introduction

Modern legal systems are fundamentally based on the promise and protection of rights. Constitutions and legislative frameworks across the world formally guarantee essential rights such as equality before the law, personal liberty, human dignity, and access to justice. These guarantees reflect the normative commitment of the state to justice and the rule of law. However, despite such constitutional and legal assurances, the actual enjoyment of these rights often remains limited for large sections of society. Scholars such as **Roscoe Pound** have long emphasized the distinction between *law in books* and *law in action*, highlighting how legal provisions frequently fail to achieve their intended social outcomes.² This continuing disparity between rights as written and rights as experienced raises serious concerns about the capacity of law to function as an effective instrument of social transformation.

A socio-legal approach, which views law within its broader social, economic, political, and cultural context, offers a valuable framework for analyzing this gap. **Eugen Ehrlich's** concept of the *living law* underscores the idea that social norms and practices often exert a stronger influence on behavior than formal legal rules.³ Similarly, **Upendra Baxi** has critically examined how constitutional rights, particularly in developing societies, may remain inaccessible to marginalized communities due to structural inequalities and institutional failures.⁴ Drawing on these perspectives, the present study examines why rights that are formally recognized by law frequently fail to translate into lived realities. It further explores how factors such as social inequality, power relations, institutional inefficiencies, and limited legal awareness shape the implementation of rights and influence the functioning of legal institutions.

2. Conceptual Framework: The Socio-Legal Perspective

Socio-legal studies fundamentally challenge the traditional notion of law as a purely autonomous and self-contained system. Conventional legal theory often treats law as a set of abstract rules that operate independently of society. In contrast, the socio-legal approach emphasizes that law is

² Roscoe Pound, *Law in Books and Law in Action*, 44 **Am. L. Rev.** 12 (1910).

³ Eugen Ehrlich, *Fundamental Principles of the Sociology of Law* 493–94 (Walter L. Moll trans., Harvard Univ. Press 1936).

⁴ Upendra Baxi, *The Crisis of the Indian Legal System* 34–36 (Vikas Publ'g House 1982).

deeply embedded within the social, political, and cultural fabric of society. Legal norms are not created or enforced in a vacuum; they are shaped by prevailing social values, power relations, institutional practices, and collective attitudes. The efficacy of law, therefore, depends as much on social compliance and public legitimacy as on formal legislative authority or judicial enforcement.⁵

From this perspective, the realization of legal rights is contingent upon a complex interplay of legal, social, economic, and cultural factors. Legal recognition alone does not guarantee meaningful access to rights; rather, rights can only be effectively exercised when individuals possess sufficient awareness of their entitlements, access to education, and the economic capacity to assert them.⁶ Equally important is the responsiveness and accountability of institutions such as the judiciary, law enforcement agencies, and administrative bodies, which serve as the primary mechanisms for translating legal guarantees into practical outcomes.⁷ Furthermore, cultural norms and social attitudes—particularly those related to authority, gender, caste, class, religion, and other forms of social identity—can either facilitate or obstruct the enforcement of rights.⁸

Therefore, the study of rights cannot be separated from the social realities in which they operate. Understanding law solely as a set of formal rules risks overlooking the systemic inequalities, institutional limitations, and societal biases that influence the actual functioning of legal rights. Socio-legal analysis, by situating law within its broader social context, provides a more comprehensive understanding of why rights that exist “on paper” often fail to materialize in practice and offers insight into the structural reforms necessary for their effective implementation.⁹

⁵ Roscoe Pound, *Law in Books and Law in Action*, 44 *Am. L. Rev.* 12, 13–14 (1910) (discussing the distinction between formal law and social reality).

⁶ Upendra Baxi, *The Crisis of the Indian Legal System* 34–36 (Vikas Publ’g House 1982) (analyzing barriers to the effective enjoyment of constitutional rights).

⁷ *Id.* at 36–38 (emphasizing institutional accountability as a key factor in realizing legal rights).

⁸ Eugen Ehrlich, *Fundamental Principles of the Sociology of Law* 493–94 (Walter L. Moll trans., Harvard Univ. Press 1936) (describing how social norms influence legal enforcement).

⁹ Baxi, *supra* note 2, at 38–40 (highlighting the need for socio-legal reforms to bridge the gap between law in books and law in action).

3. Rights on Paper: Legal Recognition and Formal Guarantees

Legal systems across the globe formally recognize a wide array of rights through constitutions, statutory provisions, and international human rights instruments. These rights encompass not only civil and political liberties, such as freedom of speech, equality before the law, and the right to vote, but also social and economic rights, including access to education, healthcare, housing, and employment opportunities.¹⁰ The codification of these rights serves multiple purposes: it establishes moral and legal standards to guide state action, provides a basis for judicial review and accountability, and empowers citizens to assert claims and seek remedies when their rights are violated.²¹¹

However, the formal acknowledgment of rights does not automatically translate into their practical realization. Many rights remain largely aspirational for substantial segments of society, particularly marginalized and disadvantaged groups.¹² This gap between legal recognition and enforcement arises from several interrelated factors. Weak institutional mechanisms, bureaucratic inefficiencies, and the limited capacity of the judiciary often hinder the effective implementation of rights.¹³ Furthermore, inadequate financial and administrative resources, coupled with a lack of political will, prevent governments from ensuring that legal entitlements are accessible to all.¹⁴ Cultural, social, and economic inequalities, including discrimination based on gender, caste, class, or ethnicity, further exacerbate the difficulty of translating rights from theory into practice.¹⁵

From a socio-legal perspective, these challenges highlight the importance of understanding rights not merely as formal legal guarantees but as social phenomena whose realization depends on the interplay of law, institutions, and societal conditions.¹⁶ The mere existence of legal texts is

¹⁰ See Universal Declaration of Human Rights, G.A. Res. 217 (III) A, U.N. Doc. A/810 at 71 (Dec. 10, 1948) (recognizing civil, political, economic, social, and cultural rights); Upendra Baxi, *The Crisis of the Indian Legal System* 34–36 (Vikas Publ'g House 1982) (discussing recognition of rights in constitutions and statutes).

¹¹ Roscoe Pound, *Law in Books and Law in Action*, 44 *Am. L. Rev.* 12, 13–14 (1910) (highlighting law's role in setting standards and enabling judicial accountability).

¹² Baxi, *supra* note 1, at 36 (observing that formal rights often remain inaccessible to marginalized populations).

¹³ *Id.* at 37–38 (discussing institutional weaknesses and their impact on enforcement of rights).

¹⁴ *Id.* at 38–39 (examining the role of limited resources and political will in rights implementation).

¹⁵ Eugen Ehrlich, *Fundamental Principles of the Sociology of Law* 493–94 (Walter L. Moll trans., Harvard Univ. Press 1936) (noting how social norms and inequalities influence the practical application of legal rules).

¹⁶ *Id.*; Pound, *supra* note 2, at 13–14 (socio-legal perspective emphasizing the interplay between law and society).

insufficient; meaningful enjoyment of rights requires effective institutional enforcement, social awareness, and mechanisms that address systemic inequalities.¹⁷

4. Rights in Reality: Barriers to Implementation

4.1 Social and Economic Inequality

Economic deprivation, low literacy, and social marginalization are among the most significant barriers to accessing justice and exercising legal rights. Individuals from disadvantaged communities such as the poor, women, lower castes, ethnic minorities, and rural populations often face a combination of financial, social, and psychological obstacles. The high cost of litigation, fear of challenging authority, and potential social ostracism create practical impediments that prevent the assertion of legal entitlements.¹⁸ As a result, legal remedies and protections tend to disproportionately benefit individuals and groups who already enjoy social and economic privilege, while marginalized populations remain excluded from the benefits of the legal system.¹⁹

4.2 Institutional Limitations

Even when formal legal rights exist, their enforcement depends heavily on the capacity, efficiency, and integrity of institutions tasked with implementation. Judicial systems in many countries are overburdened, resulting in prolonged delays in adjudication, case backlogs, and procedural inefficiencies.²⁰ Corruption, bureaucratic red tape, and lack of transparency further undermine the ability of courts and administrative bodies to provide timely and effective remedies.²¹ When institutions fail to function efficiently and impartially, public trust in the justice system erodes, discouraging individuals—particularly those from vulnerable groups—from pursuing legal remedies, thereby perpetuating cycles of exclusion and injustice.²²

¹⁷ Baxi, *supra* note 1, at 39–40 (arguing that legal recognition must be complemented by social and institutional measures for effective realization of rights).

¹⁸ Upendra Baxi, *The Crisis of the Indian Legal System* 34–36 (Vikas Publ'g House 1982) (discussing how poverty and social marginalization limit access to legal remedies).

¹⁹ *Id.* at 36 (noting that legal protections often benefit socially and economically privileged groups).

²⁰ *Id.* at 37–38 (highlighting institutional constraints such as court backlogs and procedural delays).

²¹ *Id.* at 38–39 (analyzing the impact of corruption and bureaucratic inefficiency on enforcement of rights).

²² Roscoe Pound, *Law in Books and Law in Action*, 44 *Am. L. Rev.* 12, 13–14 (1910) (emphasizing the importance of institutional efficiency and public trust for effective law).

4.3 Lack of Legal Awareness

The practical realization of rights is closely linked to public awareness and understanding. Legal provisions are meaningful only if individuals are aware of them and know how to invoke them effectively.²³ Limited legal literacy, particularly in rural areas and among socially marginalized populations, creates a significant gap between formal entitlements and their actual utilization.²⁴ Without adequate knowledge of available remedies, procedures, and institutional channels, individuals are unable to claim or enforce their rights, rendering legal guarantees largely symbolic for large segments of society.

4.4 Cultural and Social Norms

Deeply entrenched cultural and social norms also act as significant barriers to the effective enforcement of rights. Practices rooted in patriarchy, caste hierarchies, communal divisions, or traditional and religious customs often conflict with the principles of equality, justice, and human dignity enshrined in law.²⁵ Such norms can influence both the behavior of individuals and the attitudes of institutions, leading to discriminatory application or selective enforcement of laws.²⁶ Even progressive legislation may have limited impact if social attitudes continue to reinforce systemic inequality and inhibit marginalized groups from asserting their rights.²⁷

In sum, the realization of rights in practice requires more than formal legal recognition. It demands addressing structural inequalities, strengthening institutional capacity, promoting legal awareness, and challenging cultural and social barriers that undermine the effectiveness of legal protections. A socio-legal perspective highlights that law functions within a broader social ecosystem, and its impact depends on the dynamic interplay between legal norms, institutional mechanisms, and societal realities.²⁸

²³ Baxi, *supra* note 1, at 36–37 (linking legal awareness and literacy to practical realization of rights).

²⁴ *Id.* at 37 (highlighting the gap between legal entitlements and their utilization due to low awareness).

²⁵ Eugen Ehrlich, *Fundamental Principles of the Sociology of Law* 493–94 (Walter L. Moll trans., Harvard Univ. Press 1936) (discussing the influence of social norms on law enforcement).

²⁶ Baxi, *supra* note 1, at 39 (noting the role of cultural and social norms in limiting the impact of legal reforms).

²⁷ *Id.* at 39–40 (arguing that progressive legislation alone is insufficient without addressing social barriers).

²⁸ Ehrlich, *supra* note 8, at 493–94; Pound, *supra* note 5, at 13–14 (*socio-legal perspective emphasizing law's dependence on social and institutional context*).

5. Role of the Judiciary and Civil Society

The judiciary plays a central role in bridging the persistent gap between rights as formally recognized in law and their effective realization in society. Courts do not merely interpret legal provisions in a mechanical manner; they often function as proactive agents of social transformation. Through judicial activism, expansive or purposive interpretations of constitutional and statutory rights, and public interest litigation (PIL), judicial institutions have intervened to address systemic injustices and protect the interests of marginalized and disadvantaged groups.²⁹ By enforcing rights and holding state authorities accountable, the judiciary ensures that legal guarantees acquire practical significance and do not remain mere symbolic assertions.

Civil society, encompassing non-governmental organizations (NGOs), advocacy groups, grassroots movements, and social campaigns, complements the judiciary's role by working directly with communities to facilitate the realization of rights.³⁰ These organizations undertake multiple functions, including raising awareness about individual and collective legal entitlements, providing legal aid and advisory services to those who cannot access formal justice mechanisms, monitoring state and institutional compliance with laws, and lobbying for legislative and policy reforms to strengthen the protection and enforcement of rights.

The interplay between judicial activism and civil society engagement is particularly significant in societies marked by structural inequalities, where marginalized groups often lack the social, economic, or political resources to claim their rights independently.³¹ Courts can provide remedies and enforce rights, but without public awareness, advocacy, and pressure from civil society, such interventions may remain limited in scope and effectiveness. Conversely, civil society initiatives gain momentum and legitimacy when supported by judicial recognition and enforcement of rights.³²

²⁹ Upendra Baxi, *The Crisis of the Indian Legal System* 40–42 (Vikas Publ'g House 1982) (discussing judicial activism, public interest litigation, and the judiciary's role in social change).

³⁰ *Id.* at 42–43 (highlighting the contributions of civil society organizations in promoting legal awareness and facilitating access to justice).

³¹ Roscoe Pound, *Law in Books and Law in Action*, 44 *Am. L. Rev.* 12, 13–14 (1910) (emphasizing the interaction between law, society, and institutions in realizing rights).

³² Baxi, *supra* note 1, at 42–43 (noting that civil society and judicial intervention complement each other in rights enforcement).

In essence, the combined efforts of judicial institutions and civil society are indispensable for transforming legal rights from abstract principles into lived realities. The judiciary establishes the legal framework and enforces accountability, while civil society ensures that citizens are empowered, informed, and mobilized to claim their entitlements. Together, they form a dynamic ecosystem essential for the meaningful realization of rights, particularly for marginalized communities that face structural and systemic barriers.³³

6. Advancing the Substantive Realization of Rights

For rights to achieve meaningful implementation rather than remaining confined to symbolic or formal acknowledgment, a comprehensive and sustained approach is essential.³⁴ Central to this effort is the strengthening of institutional capacity, transparency, and accountability, ensuring that bodies entrusted with the enforcement of rights are effective, responsive, and answerable to the public. Equally important is the expansion of access to justice through robust legal aid systems and accessible judicial and grievance-redress mechanisms, particularly for individuals and communities that are socially or economically marginalized.³⁵

Moreover, the promotion of legal literacy and heightened public awareness plays a crucial role in empowering individuals to understand their entitlements, assert their claims, and seek remedies for violations. The realization of rights also demands deliberate action to dismantle structural and systemic inequalities by adopting inclusive and equitable policy frameworks that address historical disadvantages and social exclusion.³⁶ Finally, fostering participatory governance and encouraging active community engagement strengthen democratic legitimacy and cultivate a shared sense of responsibility in safeguarding rights.

³³ *Id.* at 43–44 (arguing that meaningful realization of legal rights requires both institutional enforcement and social mobilization).

³⁴ **Universal Declaration of Human Rights art. 8, G.A. Res. 217 (III) A, U.N. Doc. A/810 (Dec. 10, 1948).**

³⁵ Mauro Cappelletti & Bryant Garth, *Access to Justice: The Worldwide Movement to Make Rights Effective*, 17 *Buff. L. Rev.* 1, 8–11 (1978).

³⁶ Amartya Sen, *The Idea of Justice* 291–96 (Harvard Univ. Press 2009).

In this context, law must be understood not merely as a static body of rules, but as a dynamic and socially responsive institution, committed to the pursuit of justice, equity, and substantive equality in practice.³⁷

7. Conclusion

The enduring disconnect between rights as formally enshrined in legal texts and their actual realization in the lived experiences of individuals exposes the inherent limitations of a purely legalistic or doctrinal conception of rights. Merely recognizing rights within constitutions, statutes, or international instruments does not automatically ensure their enjoyment in practice. A socio-legal inquiry makes clear that the fulfillment of rights is profoundly influenced by broader social, economic, and political conditions, as well as by the everyday functioning, attitudes, and capacities of institutions responsible for their enforcement.

This perspective highlights that legal guarantees operate within complex social contexts marked by inequality, power imbalances, and varying levels of access to resources and justice. As a result, the effective realization of rights cannot be achieved through legal reform alone. Bridging the gap between rights on paper and rights in reality therefore requires a holistic and integrated approach—one that aligns legal frameworks with meaningful social transformation, institutional reform, and sustained public engagement. Only when law is complemented by supportive social conditions and responsive institutions can rights move beyond symbolic assurances and become concrete, enforceable, and genuinely transformative in the lives of people.

³⁷ Roscoe Pound, *Law in Books and Law in Action*, 44 *Am. L. Rev.* 12, 15–18 (1910).