

TOWARDS EQUITY: ANALYZING THE ENFORCEMENT OF SOCIAL JUSTICE UNDER THE CONSTITUTION OF INDIA

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Abstract

This article examines the enforcement of social justice provisions under the Constitution of India, a foundational document that espouses principles of equality, liberty, and fraternity. It delves into the constitutional framework for promoting social justice and analyzes the mechanisms employed by the Indian judiciary and other institutions to ensure its enforcement. Through a critical analysis of landmark judicial decisions, legislative measures, and policy initiatives, this study assesses the efficacy and challenges in realizing social justice goals. Moreover, it explores the role of civil society, advocacy groups, and grassroots movements in advancing social justice agendas and fostering inclusive development. By shedding light on the multifaceted dimensions of social justice enforcement, this article contributes to a deeper understanding of India's ongoing journey towards a more equitable and just society.

Keywords: Social justice, Constitution of India, Equality, Liberty, Fraternity, Judicial activism, Legislative measures, Policy initiatives, Civil society, Advocacy groups, Grassroots movements, Inclusive development.

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Introduction

Embedded within the Constitution of India lies a vision of a society founded on the principles of justice, equality, and fraternity. At its heart is a commitment to uphold the dignity and rights of all individuals, particularly those who have historically been marginalized and disadvantaged. Central to this vision is the concept of social justice, which encompasses not only the equitable distribution of resources and opportunities but also the eradication of discrimination and the promotion of inclusivity.

The Constitution of India, adopted in 1950, lays down a comprehensive framework for the realization of social justice. Through its preamble, fundamental rights, directive principles of state policy, and other provisions, it mandates the state to take affirmative action to uplift the downtrodden, protect the rights of minorities, and promote the welfare of all citizens. However, the enforcement of social justice ideals has been a complex and evolving process, marked by both progress and challenges.

This article seeks to explore the enforcement of social justice under the Constitution of India. It examines the constitutional provisions and mechanisms aimed at promoting social justice and analyzes the role of various actors, including the judiciary, legislature, executive, civil society, and grassroots movements, in advancing this agenda. Furthermore, it critically evaluates the impact of landmark judicial decisions, legislative measures, and policy initiatives on the realization of social justice goals.

By delving into these issues, this study aims to provide insights into the multifaceted nature of social justice enforcement in India. It highlights the successes achieved, the obstacles encountered, and the ongoing efforts to bridge the gap between constitutional ideals and ground realities.

Ultimately, this exploration underscores the imperative of collective action and sustained commitment to build a more equitable and inclusive society for all citizens of India.

Social Justice in Constitution

A picture of the constitution will give us the Right perspective for Appreciation of the Scope and place of Social Justice as an aspiration of the Nation. Its objects and the machinery to achieve those objects. The objective sought to be achieved by the constitution of India echoes in its preamble which reads that the people of India have solemnly resolved to constitute India Into a Sovereign Democratic Republic, Secular in secure to all its a citizens, Justice, Social, economic and political and liberty of through, expression, belief, faith and worship and equality of status and of opportunity. ¹

*Golak Nath v. state of Punjab*² it is an error to view our constitution as it was a mere organizational document by which the people established structure and mechanism of their Government. Our constitution is intended to be much more, because It, aims at being a, Social Document in which the relationship of society to the Individual and of Government to both and the rights of the minorities and the Backward classes are clearly laid down. This social document is headed by a preamble which epitomizes. The principle on which the Government is intended to function and these principles are later expanded Into Fundamental Rights in part III and the directive Principles of state policy in part IV. The former represent the limits of state action and the latter are the obligations and the duties of the Government as good and Social Government. The constitution of India is a historic Socio-Legal document embracing the aspirations of the people belonging to a multifaceted heterogeneous society undoubtedly; it is the *volkgeist*, the spirit of the people of India. The aim of the Grund norm in the constitution is social justice Hence, the aim of the Grund norm, The Constitution is establishment of an egalitarian policy well entrenched in Social Justice as engrained in the preamble. ³

The Indian republican constitutions based it on four principal pillars:

The Indian republican constitution based itself on four principal pillars. A sovereign parliament with parliamentary democracy, social Justice, Federalism and secularism and we have been continuously witnessing an attack on each of these foundations since Independence, perhaps more so as and when the factors which led to these gains get weakened.⁴

Social Justice A Fruit of Revolution

Social Justice was initially a doctrine of Social philosophy but now it has entered into statecraft and has captured. The constitutional field. The process has been historical. Social Justice Secured equality whereas Political Justice secured liberty. The revolutions have lent this concept majesty that human relations and associations in all their social, political and economic forms are now clasped within its fold.⁵

Earlier, in the same judgment, Subba Rao, C.J., had said that the preamble of our Constitution contains, in a nutshell, its ideals and it's as privation worked out in detail in the Constitution. The

¹ *R.G. Chaturvadi "Natural and Social Justice" second edition 1975 Ch XIII Note 4. P. 465*

² *AIR 1967 SC 1643*

³ *Venkatram Narasimha Reddy"Article 21, has The Supreme Court Google Gone Tooyar AIR 2001 Vol. 88 Journal p.289.*

⁴ *Basu Nilotpal "peoples democracy Vol. XXX Note 44 Act 29 2006 p. 4*

⁵ *R.G. Chaturvadi "Natural and Social Justice" second edition 1975 Ch XIII Note 4. P. 405*

different constitutional entities, namely, the Union, the States and the Union Territories; and the three major instruments of power, namely, the Legislature, the Executive and the Judiciary, have their spheres and respective jurisdiction demarcated and the scope and the manner of the exercise of their respective powers regulated by law. No authority created under the Constitution is supreme; the constitution alone is supreme⁶

Earlier, in *State of Mysore v. Workers of Gold Mines*,⁷

Gajendragadkar, J. (as he then was) had observed that social and economic justice have been given a place of pride in our Constitution. The Preamble to the Constitution, a basic postulate of the nation's founding faith, expressly articulates the vision of the nation as a Social Justice State with a dynamic, democratic, egalitarian order. Indeed, Parts III and IV is plainly Fabian socialist.

1. Social justice and preamble of the constitution of India;
2. Social justice and fundamental rights of the citizen of India;
3. Social justice and directive principles of state policy.
4. Other provisions of the constitution of India

1. Social justice and preamble of the constitution of India:

Justice, Social, Economic and Political are a triune phenomenon inscribed as a pledge in the Preamble glory of our Constitution. Economic democracy has a crimson material complexion and expressively emphasizes a socialist democracy. But overlapping this leftist ideology, yet with independent features and dimensions is social democracy. India, abandoning the social justice values enshrined in the Preamble, commenced a neo-colonial voyage, making head way steadily backwards. A total turn-around, a volte face, a diametrical contradiction eclipsed the objective, subverted the policies and shot down the socioeconomic paradigm for which Gandhi Nehru era stood.⁸

The Indian Constitution turned to this democratic commitment begins its Preamble thus: WE, THE PEOPLE OF INDIA, are having solemnly resolved to constitute India into a (SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC) and to secure to all its citizens: JUSTICE, social, economic and political; LIBERTY of thought, expression, belief, EQUALITY of status and of opportunity; And to promote among them all FRATERNITY assuring the dignity of the individual and The (unity and integrity of the Nation); IN OUR CONSTITUENT ASSEMBLY this twenty sixth day of November, 1949, do HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.⁹

a. The Preamble secure social justice to all the citizens of India

Justice - Social, economic, and political. Liberty - Of thought, expression, belief, faith and worship Equality-Of status and of opportunity. The constitution of India professes to secure to the citizens social, economic and political justice. Social justice means the abolition of all sorts of inequities which may result from the inequalities of wealth, opportunity, status, race, religions, caste, title and the like. To achieve this ideal of social justice, the Constitution lays down the Directives for the State in Part IV of the Constitution¹⁰

The court is independent, as it should be, uninfluenced by extraneous forces or internal pressures. The Judges, high and low, transform the social order and give justice-social, economic, political

⁶ *supra*

⁷ *State of Mysore v. Workers of Gold miners. AIR 1963 S.C*

⁸ *D.S. Nakara v. Union of India (1983)(1) SCC. 305.*

⁹ *Preamble of the constitution of India*

¹⁰ *John Rowls - Theory of Justice p. 60*

and cultural, in such manner that the people secure what was promised to them by the noble Preamble. The access to justice, the faith in fundamental rights and social justice and the maintenance of the rule of law turn on judicial integrity. In the Constitution which aims at elimination of inequality in income and status and standards of life and may enable the courts to lean more and more in favour of nationalization and State ownership of industry. The court has also used the word socialist in the preamble for evolving a concept of social democracy which comes closer to the concept of social welfare state expressed as 'social state' for example in the Constitutions of France and Germany¹¹. The word "socialism" in the Preamble of the Constitution was expressly brought in the constitution to establish an egalitarian social order through rule of law as its basic structure.

In *Minerva Mills Ltd. v. Union of India*¹² the Constitution Bench had considered the meaning of the word "Socialism" to crystallize a socialistic State securing to its people socio-economic justice by interplay of the Fundamental Rights and the Directive Principles.

The social, economic and political justice as a three folds classification of justice. It is difficult to conceive the latter two as independent and apart from society. Conceived generically social Justice includes economic and political Justice Social Justice as the name indicates must conform to Justice in all in its social aspects. The deeper roots of Social Justice are to be found in economic Justice. The social welfare theory the state which takes a comprehensive view of the state activities includes both social and economic Justice¹³

Philosophers had recognized such social rights as natural Rights" Fundamental Rights are in fact, the modern name for what have been traditionally known as The Natural Rights. It has been held by authors that they are moral Rights which every human being everywhere at all times ought to possess and enjoy simply because of the fact that in contra distinction with other being. The human being is Rational and moral. They are the primordial rights necessary for the development of human personality.¹⁴

Rights through the Fundamental Right of Citizen

Social Rights Subject to Social Control as Charted out in part III of the constitution

Social Rights Subject to social control, as charted out in part III of the constitution of India. Social Justice Concerns with such Rights only as have a social impact which can be controlled from wider social perspective. Speaking broadly, every rights has a social element man being a creature of the society social justice concerns itself with the rights of social rather than of a personal nature.¹⁵

*Keshavanand Bharti v.State of Kerala*¹⁶

The fundamental Rights and directive principles are supplement each other and aim at the same goal of about a social revolution and the establishment of a welfare state. The fundamental rights of our constitution are social justice. It is mentioned in the preamble itself Justice: Social, Political, and Economic. It the ideas of social justice were not to remain on paper, how do we give them concrete shape? How do citizens realize that it is through governance they ought to get social

¹¹ *Exil Wear v. Union of India* (1978) p. 4245.

¹² *A.I.R. 1980 SC 1789*

¹³ *Valsamma paul v. Cochin University AIR 1996 SC p. 14*

¹⁴ *.D.S.Nakarav.union of India AIR 1983 SCC.305*

¹⁵ *Golak Nath v. State of Punjab University AIR 1967 SC 1643*

¹⁶ *AIR 1973 SCC 225*

Justice? The constitution of England is written and the supremacy of parliament is its dominant characteristic of social justice "Rule of Law" explains that an individual in England has the right and freedom to take whatever action he like, so long as, he does not violate any rule of the ordinary law of the land. The Americans Constitution framed in 1787 and brought in to force in 1789, did not contain any fundamental rights for Americans. It was met with serious condemnation. Consequently, the first ten amendments were enacted in 1791, incorporating the fundamental rights. These amendments have been described as the American "Bill of Rights". The Rights are binding on the Executive as well as the Legislature.¹⁷

Fundamental Rights in India - Nature and Scope

Part - III of the Constitution is said to contain the bill of Rights for the people of India. They have been said to be the very foundation and the corner-stone of the democratic way of life ushered in this country by the Constitution. These rights have been declared as sacrosanct, inalienable and inviolable. It has been emphasized that Fundamental Rights are not to be read in isolation. They have to be read along with the Chapter on Directive Principles of State Policy and the Fundamental Duties enshrined in Article 51A. The Rights are to be kept in conformity with the changing socio-economic conditions. For the purpose, the Constitution confers power on the State, the constituent power, the power to amend the Constitution including the Fundamental Rights. For example, the Constitution 1st Amendment, 1951, amended the provision relating to Fundamental Rights.¹⁸

Social justice through the Fundamental rights of citizen

The Fundamental Rights, which are secured by the Constitution of India, are grouped under the following heads

Right to Equality (Articles 14 to 18)

Right to Freedom (Articles 19 to 22)

Right to Education (Article 21-A)

Right against Exploitation (Articles 23 and 24)

Right to Freedom of Religion (Articles 25 to 28)

Cultural and Educational Rights of minorities (Articles 29 and 30) and

Right to Constitutional Remedies (Article 32)¹⁹

Fundamental Rights are Available against the State

According to the philosophy behind Fundamental Rights, they are available only against the State, for they are limitations upon the powers of the Government, Legislative as well as Executive. It is against the might of the State that an individual needs constitutional protection Conceptually, the fundamental rights are available only against the State, However, there are provisions in part III of the Constitution, which impose limitations upon the action of private individuals as well, for example, Articles 15(2), 17, 18(2), 23(1), and 24. As regards these provisions, the Supreme Court in *People's Union for Democratic Rights v. Union of Indian* ruled that it was the constitutional obligation of the State of takes necessary steps for the purposes of interdicting such violation and ensuring observance of the fundamental rights by the private individual who was transgressing the

¹⁷ Dicey. AV "Introduction to Law of Constitution 1991 P. 198

¹⁸ *State of Madras v. Champak am Dorairajan. AIR 1951 SC 226*

¹⁹ *Javed v. State of Haryana AIR 2003 SC 3057.*

same.²⁰ The first Fundamental Right secured to the people of India is the "Rights to Equality". It is contained in Articles 14 to 18. These provisions are discussed under the following heads

1. Equality Before Law or Equal Protection of Laws (Article 14)
2. Prohibition of Discrimination Against Citizens (Articles 15)
3. Equality of Opportunity in Public Employment (Article 16)
4. Abolition of "Unsociability" (Article 17)
5. Abolition of Titles (Article 18)

Concept of Equality

The concept of equality has been held basic to the rule of law: the majority of the Supreme Court has held that the right to equality conferred by Article 14 is a Basic Structure of the Constitution and an essential feature of democracy or rule of law²¹. Article 14 provides: The state shall not deny to any person equality before the law or equal protection of laws within the territory of India. Article 14 uses two expressions namely

1. Equality before Law
2. Equal protection of laws

Equality before Law

The phrase "equality before law" is English in origin. It is a familiar feature of what Dicey called the "Rule of Law".

"Rule of Law" means that no man is above the law and that every person whatever be his rank or condition, is subjected to the ordinary law of the land is amendable to the jurisdiction of the ordinary tribunals. He observes: "With us every official, from the Prime Minister down to a constable or a Collector of taxes, is under the same responsibility for every act done without legal justification as any other citizen.

Equal Protection of Laws

The phrase "equal protection of laws" is based on Section 1 of the Fourteenth Amendment of the Constitution of the United States of America adopted on July 28, 1868, which runs as: "nor shall any State-deny to any person within its jurisdiction the equal protection of laws". This phrase is interpreted to mean "subjection of equal laws applying to all in the same circumstances". It means that all persons have the right to equal treatment in similar circumstances, both in the privileges conferred and in the liabilities imposed by laws. It requires that equal laws should be applied to all in the same situation and that there should be no discrimination between one person and another. Thus, the phrase "equal protection of laws" lays down the rule that "like should be treated alike and not that unlike should be treated alike". Article 7 of the Universal Declaration of Human Rights, proclaimed on December 10, 1948, uses both the expressions. It says: "All are equal before the law and are entitled without any discrimination to equal protection of the law"²².

Who may Claim under Article 14-Protection

The obligation imposed on the state by Article 14, is for the benefit of all persons, within the Territory of India. The Benefit of Article 14 is, therefore not limited to citizens. Every person

²⁰ *Peoples Union for Democratic Rights v. Union of India AIR 1982 SC 1473*

²¹ *Indira Nehru Gandhi v. Raj Narayan AIR 1975 SC 2299*

²² *Article of the Universal Declaration of Human Rights Proclaimed on Dec. 10, 1948*

whether natural or Artificial whether he is a citizen or an alien is entitled to the protection of this Article. It may however be noticed that an alien (a foreign national cannot claim equal rights Under Article 14, with of the Indian Nationals, So for as the grant of citizenship of India.²³

Article 14 permits Reasonable Classification

The principle of equality embodied in Article 14, thus, permits classification. But, the classification permitted by Article 14 must rest upon reasonable grounds of distinction. It must not be "arbitrary, artificial or evasive". It must be a reasonable classification.²⁴

Article 14 Prohibits Class Legislation

Article 14 prohibits class legislation, "Class legislation" means legislation differentiating between the same classes of persons. When persons belong to the same class or that they are equal among themselves in certain respects, they have to be treated equally in such matters. Law would be volatile of Article 14 if it treats these persons differently

Social justice and to test for Reasonable Classification

(I) that, the classification must be founded on an intelligible differentia which distinguishes persons of things that are grouped together from others left out of the group and

(ii) that, the differentia must have a rational relation to the object sought to be achieved by the Statute in question. After laying down the above two broad tests, the Court propounded the following principles which were to be borne in mind by the Court in determining the validity of a Statute on the ground of violation of Article 14.²⁵

Article 14 Strikes at Arbitrariness

A Dynamic Approach to save social justice: The Supreme Court in *E.P. Royappa State v. of Tamil Nadu*²⁶ has given a dynamic connotation to the equalizing principle. The Court declared this equalizing principle contained in Article 14 as a "founding faith", a way of life" must not be subjected to "a narrow pedantic or lexicographic approach. Equality is a dynamic concept with many aspects and dimensions and it cannot be "cribbed, cabined and confined" within traditional and doctrinaire limits. From a positivistic point of view, equality is antithetic to arbitrariness. In fact, equality and arbitrariness are sworn enemies; one belong to the rule of law in a republic while the other, to the whim and caprice of an absolute monarchy. In *Maneka Gandhi v. Union of India*,²⁷ the Supreme Court reiterated the majority view in *E.P. Royappa v. State of Tamil Nadu* and emphasizing on the content and reach of the great equalizing principle enunciated in Article 14, stated. Article 14 Strikes at arbitrariness in State action and ensures fairness and equal of treatment. Article 14 and Admission to Educational Institutions: The Court held that the scheme had the effect of nationalizing education in respect of important features, viz., and the right of a private un-aided institution to give admission and to fix the fee. It was held neither fair nor reasonable. The Apex Court observed that the private unaided educational institutions imparted education and that could not be the reason to take away their choice in matters, inter alia, of selection of students and fixation

²³ *Satish Nambiar v. Union of India* AIR 2008 Bom p. 158.

²⁴ *State of west Bangal v. Anwar Ali* AIR 1952 SC 75

²⁵ *Ram Krishnan Dalmia v. Justice Tendalkar* AIR 1958 SC 538

²⁶ AIR 1974 SC 555

²⁷ *Maneka Gandhi v. Union of India* AIR 1978 SC 597

of fees.²⁸ Reservation of seats for persons belonging to areas, which are socially & educationally backward, is constitutionally permissible. Allotment of seats in view of the historical background is permissible under Articles 14 and 15. Rural element does not make it a class and provision for rural areas cannot be sustained.²⁹ The Apex Court in *R.K.Daria v. Rajasthan Public Service Commission*³⁰ ruled that reservation for women in the State Judicial Services, being horizontal (special) reservation, would be counted within the vertical reservation. Thus women selected on merit within the vertical reservation quota would be counted against the horizontal reservation for women.

No Discrimination against Citizens Article 15(1)

Clause (1) of Article 15 provides: "The State shall not discriminate against any citizen on ground only of religion, race, caste, sex, and place of birth or any of them". Discrimination, in the context of Article 15 also means classification among persons or things and also reservations for some of the members of a group or a class. If any such classification or reservation is based on any of the grounds mentioned in Article 15(1), i.e., religion, race, caste, sex or place of birth, it would be violative of Article 15(1).³¹

Conclusion

In conclusion, the enforcement of social justice under the Constitution of India remains a journey marked by progress, challenges, and the relentless pursuit of equity. Since its inception, the Constitution has provided a robust framework for promoting social justice through its commitment to fundamental rights, directive principles of state policy, and other provisions aimed at empowering marginalized communities and fostering inclusivity.

Through the concerted efforts of various stakeholders, significant strides have been made in advancing social justice objectives. Landmark judicial decisions have expanded the scope of rights and protections available to historically marginalized groups, while legislative measures and policy initiatives have sought to address systemic inequalities and discrimination. Civil society organizations, advocacy groups, and grassroots movements have played a crucial role in amplifying voices, advocating for policy reforms, and holding the government accountable for its actions.

However, the journey towards achieving true social justice is far from over. Persistent socio-economic disparities, entrenched discrimination, and systemic barriers continue to hinder the realization of equitable outcomes for all citizens. Moreover, challenges such as implementation gaps, bureaucratic inefficiencies, and political apathy pose significant obstacles to the effective enforcement of social justice measures.

As India grapples with these challenges, it is imperative for all stakeholders to recommit themselves to the principles enshrined in the Constitution and redouble their efforts towards building a more just and inclusive society. This requires not only addressing structural inequalities and discriminatory practices but also fostering a culture of empathy, solidarity, and collective responsibility.

²⁸ *Uhnikrishan v. State of Andhra Pradesh AIR 1993 SC 10*

²⁹ *Narayan Sharma v. Pankaj Krlekar AIR 2000 SC 72*

³⁰ *AIR 2007 SC 3727*

³¹ *General Manager v. Rangchari AIR 1962 SC 36*

In this endeavor, the judiciary, legislature, executive, civil society, and citizens must work hand in hand to dismantle barriers, promote dialogue, and enact meaningful reforms that uphold the dignity and rights of every individual. By staying true to the vision of social justice articulated in the Constitution, India can strive towards becoming a beacon of hop