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ROLE OF LAW IN PROMOTING SOCIAL JUSTICE IN INDIA

Renuka Mahendra Sontakke

Embedded in the heart of the India's Constitution is the solemn promise to secure 'Justice, social, economic and political' for all its citizens, a commitment that shames the nation's pursuit of social justice through a robust framework. Social Justice is a rather simple phenomenon – equal distribution of opportunities, facilities and privileges in the society. This commitment in India's legal framework ensures that every individual regardless of their background has an equal right in the social, economic, and political spheres. In this blog we will explore how the Indian Legal system promotes to uphold this system and the ongoing challenges it faces while promoting social justice.

The Indian legal system is one of the oldest legal systems in the world and it has a complex framework of laws, regulations, and institutions that govern the country. The legal system in India deeply values Constitutionalism. Adopted in 1950, the Constitution of India provides fundamental rights to the citizens, distributes power between the central and state governments, and gives structure to the Judiciary.

The Constitution and Social Justice

The Preamble of the Indian Constitution sets the tone for social justice by committing to "Justice, social, economic and political."¹ The inclusion of these words in the Preamble indicates that the concept of social and economic justice was perhaps considered the most primary intention of the Constitution of India.² It could be said that the Constitution makers had a far-fetched vision to inculcate social justice in a society where there is no discrimination among people based on religion, race, sex, or caste. The constitution ensures to establishment

¹ Preamble to the Indian Constitution 1950

² Shukla, S. (2013). SOCIAL JUSTICE IN INDIA: CONSTITUTIONAL VISION AND THEREAFTER. The Indian Journal of Political Science, 74(2), 357–368. <http://www.jstor.org/stable/24701121>

of social justice through various articles which will be discussed in depth eventually but these provisions broadly aim to provide socio-economic equality in the society, to achieve the goal of socialism by establishing fair and equal opportunities, and lastly by safeguarding the vulnerable sections of the society.

While there are a huge number of provisions spread around the Grundnorm of Indian laws, that aim to achieve this goal, let us look into the Fundamental Rights in Part III guaranteeing certain basic rights to individuals in the society.

Article 14: Guarantees equality before the law and equal protection of the laws.

Article 15: Prohibits discrimination on grounds of religion, race, caste, sex, or place of birth. And allows the state to make special provisions for vulnerable sections of the society.

Article 16: Ensures quality of opportunity in matters of public employment with provisions for reservations for backward classes

Article 17: Abolishes untouchability and forbids its practice in any form.

Article 21: Guarantees the right to life and personal liberty, which has been expansively interpreted to include the right to live with dignity.

While fundamental Rights protect individual freedoms and equality, the DPSP guides the state to create policies for a fair and just society. Together, they embody the vision of a more equitable India, emphasizing that both immediate rights and long term policies are essential for true social justice.

Article 38: Mandates the state to secure a social order for the promotion of the welfare of the people.

Article 39: Directs the state to ensure the citizens have an adequate means of livelihood, equitable distribution of wealth, and prevention of concentration of wealth.

Article 41: Ensures the right to work, education, and public assistance in certain cases.

Article 46: Promotes the education and economic interests of Scheduled Castes, Scheduled tribes, and other weaker sections.

Leading case laws

1. *Olga Tellis & Ors. v. Bombay Municipal Corporation & Ors*³ is a landmark judgement in context of social justice in India. The SC recognized the right to livelihood as an integral part of the right to life under Art 21 of the Indian Constitution. The court ruled that the right to life includes the right to live with dignity, which is inseparable from the right to childhood. The state's responsibility to protect the livelihood of its citizen, especially the marginalized section of the society and thus the judgement promoted social justice by ensuring that even the poorest citizens have their basic needs and rights protected.
2. *Indra Sawhney v. Union of India*⁴ case played a crucial role in promoting social justice by holding the reservation for Other Backward Classes (OBC) in government jobs and educational institutions. Decision made in this case reinforced the Constitution's vision of an inclusive society. The historically marginalized communities received equitable opportunities as the judgement aimed to correct the imbalances deeply rooted in the society on vague reasoning and paved the way for a just and fair Indian society.
3. In *Navtej Singh Johar v. Union of India*⁵ the hon'ble Supreme Court struck down Section 377 of the Indian Penal Code, decriminalizing consensual homosexual acts. This case became a landmark case for recognizing the rights for individuals belonging LGBTQ+ community. This judgement also recognized equality, privacy, dignity of such individuals and thus affirmed social equality and justice for sexual minorities in India.

Conclusion

The Indian Legal System aims to create fair opportunities for every citizen regardless of their background. Constitutional provisions establish a framework for the Indian state to rectify social inequalities and propel the socio-economic advancement of marginalized communities through affirmative action and reservation policies. The laws in India are framed as per the constitutional visions and commit to follow its principles to build a more fair, united and equal society.

³ 1986 AIR 180, 1985 SCR SUPL.

⁴ AIR 1993 SC 477; 1992 Supp 2 SCR 454

⁵ AIR 2018 SUPREME COURT 4321