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**A CRITICAL PERSPECTIVE OF SOCIAL JUSTICE IN INDIA****INTRODUCTION**

A society, that protects the rights and liberties of individuals and provides all the economic and social blessings to the best advantage of the smallest amount privileged sections within the society, may well be thought of simply one<sup>1</sup>. The Constitution of Republic of India was adopted on November 26; 1949. The Indian Constitution is exclusive in its contents and spirit. although borrowed from virtually each Constitution of the globe, the Constitution of Republic of India has many salient options that distinguish it from the Constitutions of different countries The Preamble of Constitution of India is intended to understand socio-economic justice to all or any the folks in {India |Indian |Republic of Republic of India |Bharat |Asian country Asian nation }.

**BACKGROUND**

In the Indian context social and economic justice assumes new significance. It bears no analogy to the means ascribed to that within the western societies. The stratification of the Hindu society based mostly upon institutionalized hierarchical social inequalities makes the upward movement of the lower castes not possible.

The division of society into Brahmans, Kshatriyas, Vaishyas and Sudras has divided the society vertically. The rigidity of the class structure had sealed the quality of individuals from

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<sup>1</sup> Rawls john, Theory of Justice, (1971)

one caste to a different. Below the fourfold division of the Hindu society there's an outsized category of individuals called Panchamas subjected to the degraded apply of untouchability. There are different sections leading roving lives untouched by civilization; social evolution has not reached them. The first inhabitants of this country, the Adivasi's are currently unremarkably known as the scheduled Tribes.

Realization of social and economic justice compels alteration of the fundamental structure of the society by first appearance new legal order to harmonize the conflicting interests of various sections. Differential treatment accorded bylaw to more social justice can't be termed discriminatory since the welfare of the society as a full is that the basis for the differential measures.

## **SOCIAL JUSTICE**

Social justice broadly speaking incorporates economic justice conjointly. The socio economic justice as unreal by the Indian Constitution is found principally within the Directive Principles of State Policy – half IV of the Constitution of India and to a touch extent within the Chapter on elementary Rights and bound different provisions of the Constitution. Social justice denotes the equal treatment of all voters with none social distinction supported caste, colour, race, religion, sex then on. It means that absence of privileges being extended to any explicit section of the society, and improvement within the conditions of backward categories (SCs, STs, and OBCs) and women. Social Justice is that the stone of Indian Constitution.

Social Justice is that the recognition or bigger smart to a bigger range while not deprivation or step-up of legal rights. The thought of social justice is central and integral to the Constitution and it's assumed to be to be a basic structure of the Constitution that can't be whittled down, altered or done away with visible of the Doctrine of Basic Structure propounded in **Kesavananda Bharati case**<sup>2</sup>.

Simply put, Social Justice is that the comprehensive kind to get rid of social imbalance by law harmonizing the rival claims or the interest of various teams and/or section within the social organisation or people by means that of that alone it'd be doable to create up a welfare State<sup>3</sup>.

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<sup>2</sup> Keshavnanda Bharti v. State of kerala, AIR 1973 SC 1461

<sup>3</sup> Dalmia Cement (Bharat) ltd. Vs. UOI, (1996) 10 S.C.C. 104

The term “Social Justice” isn't capable of any precise definition. It's neither any specific content nor will it have any definite contours. It changes with the days, with the culture, with the state of economy and with the people. ‘Economic Justice’ means that the banishment of impoverishment, not by confiscation of these World Health Organization have however by the multiplication of the national wealth and resources and an equitable distribution there from amongst all World Health Organization contribute towards its production, is that the aim of the state envisaged by the directive principles. Economic democracies are put in in our sub-continent to the extent that this goal is reached. In short, economic justice aims at establishing economic democracy and a “welfare state”.

The right to economic justice to the scheduled castes, scheduled tribes and different weaker sections may be a fundamental right to secure equality of standing, chance and liberty. Economic justice may be a aspect of liberty without that equality of standing and dignity of person is teasing illusions<sup>4</sup>. The ideal of economic justice is to make equality of standing purposeful and life value living at its best removing difference of chance and of status-social, economic and political<sup>5</sup>. Liberty, equality and fraternity ought to be secured and guarded with social justice and economic empowerment and political justice to all or any the voters underneath the rule of law.<sup>6</sup>

Distributive justice may be a course that Social Justice adopts. In different words, the term Social Justice implies offering economic chance, economic equality and removal of social disabilities. It implies within the Indian context, programmes aimed toward equality before law, civil right, alleviation of impoverishment, bridging of the gap between the have and also the unfortunate, re-distribution of fabric resources, betterment of conditions of labour and removal of caste disabilities etc. In Republic of India the thought of state is that the claims of social justice should be treated as cardinal and overriding. Therefore, The Constitution of Republic of India within the preamble resolved to secure to all or any its citizens<sup>7</sup>;

### **CONSTITUTIONAL EMPHASIS ON SOCIAL JUSTICE**

The constitutional concern of social associated economic justice as an elastic continuous method is to accord justice to all section of the society by providing facilities and

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<sup>4</sup> Papaiah vs state of Karnataka and ors. (1996) 10 SCC 533

<sup>5</sup> Dalmia Cement (Bharat) ltd. Vs. UOI, (1996) 10 S.C.C. 104

<sup>6</sup> S.S. Bola vs B.D. Sardana (1997)9 SCC 522

<sup>7</sup> Kashyap c. Subhas, our constitutional an introduction to india’s constitution and constitutional laws p. 72 (2007)

opportunities to get rid of handicaps and disabilities with which the poor etc are languishing and secure dignity of their person<sup>8</sup>.

Social Justice is that the principles that go in the formation of a state. Themes and principles of socioeconomic justice are amply mirrored within the Preamble to the Constitution, partly III basic Rights and in Part IV the Directive Principles of the Constitution. It's been control that the validity of any law enacted by the legislature would be tested against the touchstones of the Preamble, basic Rights and Directive Principles.

The Preamble, basic Rights and also the Directive Principles type the moral basis for the constitutional endeavour of social engineering for the creation of associate egalitarian society. Even within the case of **S.R. Bommai v Union of India**<sup>9</sup> wherever court control that Social Justice and review is the basic feature of the Constitution of India. The seeds of Social Justice that are seeded within the Preamble; and by the time one goes to half III and half IV, they're fully bloom. Articles fourteen, fifteen and sixteen speak of equality before law and equal protection of laws. Besides the Preamble, the Directive Principles of State Policy contained in Chapter IV of the Constitution expostulate the philosophy of social justice.

In **Workmen of Meenakshi Mills Ltd. v Meenakshi Mills Ltd.**<sup>10</sup> the Apex Court ascertained that the Preamble to the Constitution declares the solemn resolve of the folks of Bharat to secure to all or any the voters justice-social, economic and political. Law is that the final aim of each civilised society as a key system in a very given era, to fulfill the wants and demands of its time. Justice, in keeping with law, comprehends social urge and commitment.

“Social justice and equality are complementary to every different so each ought to maintain their vitality. Rule of law, therefore, may be a potent instrument of social justice to create equality in results.” There is often no justice while not equality. Article 14 guarantees the basic right to equality before the law on all persons. nice social injustice resulted from treating sections of the Hindu community as 'untouchable' and, therefore, Article seventeen abolished untouchability and Article twenty-five permissible the State to create any law providing for throwing open all public Hindu spiritual temples to untouchables. Therefore, provisions of Part-III additionally give for political and social justice<sup>11</sup>.

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<sup>8</sup> Consumer education and research center v. UOI, (1995) 3 SCC 42, (PARA 19): AIR 1995 SC 922

<sup>9</sup> AIR 1994 SC 1918

<sup>10</sup> (1992) 3 SCR 33

<sup>11</sup> M. Nagraj and others vs, union of India and others (2006) 8 SCC

The expression 'social and economic justice' involves the construct of 'distributive justice' that connotes the removal of economic inequalities and rectifying the injustice ensuing from dealing or dealing between unequal in society. It comprehends quite change of inequalities by totally different taxation, giving debt relief or regulation of contractual relation; it additionally means that the restoration of properties to people who are empty them by unconscionable bargains; it's going to additionally take the shape of forced distribution of wealth as a way of achieving a fair division of fabric resources among the members of society<sup>12</sup>.

Social justice thinks about with the distribution of advantages and burdens. The idea of distribution is that the space of conflict between rights wants and means that. The Constitution of Bharat has solemnly secure to all or any its voters justices-social, economic and political; liberty of thought expression, belief, religion and worship; equality of standing and of opportunity; and to market among the all fraternity reassuring the dignity of the individual and also the unity of the state in 3 elements, one is Preamble, second basic Rights and third through Directive Principles.

## A. Fundamental Rights

The Supreme Court in **Sadhuram VS. Pullin Behari** ascertained that social justice is one among the aspirations of the Indian Constitution. Visible of securing to all or any its voters social justice our Constitution provides some Fundamental rights partly III a number of that are accessible to all or any Persons and a few are pleasant solely by the voters of Bharat.

They are –

- ❖ Equality before law (Art 14)
- ❖ Prohibition of discrimination on ground of faith, race, caste, sex or place of birth (Art 15)
- ❖ Equality of chance in matters of public employment (Art 16)
- ❖ conclusion of Untouchability (Art 17)
- ❖ conclusion of titles (Art 18)
- ❖ Protection of bound rights relating to freedom of speech etc. (Art 19)
- ❖ Protection of life and private liberty (Art 21)

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<sup>12</sup> Basu durga das, Shorter constitution of India, p.4(2006)

- ❖ Protection in respect of conviction for offenses (Art 20)
- ❖ Protection against arrest and detention in bound cases(Art 22)
- ❖ Protection of traffic in men and compelled labour (Art 23)
- ❖ Prohibition of employment of youngsters in factories or mines or in the other dangerous employment (Art24)
- ❖ Freedom of faith (Art twenty five - 28)
- ❖ Protection of interests of minorities (Art 29-30)
- ❖ Judicial remedies for social control of rights given by this half - III of the Constitution (Art 32).

## **B. Directive Principles of State Policy**

To realize the goal of social and economic justice our Constitution additionally provides some directives to the State in the form of Directive Principles of State Policy (Articles 39-50) and lays down that the state shall direct its policy towards securing these objectives. the foremost vital of those directives square measure –

- ❖ Promotion of welfare of the folks (Art 38)
- ❖ Adequate means that of livelihood; equal distribution of fabric resources of the community; distribution of means of production to the commonweal equal procure equal work; promotion of health and strength of staff, men and ladies and therefore the youngsters : Protection against exploitation of kid hood and youth (Art39)
- ❖ Equal justice and free legal aid (Art 39A)
- ❖ Right to figure, education and to public help in bound cases (Art 41)
- ❖ simply and human conditions of labour and maternity relief (Art 43)
- ❖ Living wages for employees (Art 44)
- ❖ Uniform civil code (Art 44)
- ❖ Free and mandatory primary education for youngsters (Art45)

Article 38 of the Constitution enjoins the State to try to market the welfare of the folks by securing and protective, as effectively because it could, the social order within which justice- social, economic, and political- shall inform all the establishments of the national life effort to reduce inequalities in financial gain and endeavour to eliminate inequalities in standing, facilities, opportunities amongst people and teams of individuals residing indifferent areas or

engaged completely different [in several | in numerous] vocation<sup>13</sup>. Read with Article 39A, Social Justice would come with „legal justice“, which suggests that the system of administration of justice should give an inexpensive, prompt and effective instrument for realization of justice by all section of the folks no matter their social or economic position or their money resources<sup>14</sup>. Article fourteen to eighteen must be understood within the lightweight of social justice assured by Articles thirty-eight, 39, 39A, forty one and forty six of half IV of the Constitution.<sup>15</sup>

In **State of state vs. Kameshwar Singh**<sup>16</sup> Court command that the perfect we've got set before North American country in Art.38 is to evolve a State that should perpetually try to market the welfare of the folks by securing and creating as effectively as it is also, a social, economic and political justice shall inform all the establishments of the national life. The thought of social justice consists of various principles essential for orderly growth and development of personality of each national. it's a dynamic device to mitigate the suffering of the poor, weak, dalits, tribal and deprived section of people.<sup>17</sup>

Again, within the case of **Air Asian country Statutory Crop. Vs. United Labour Union**<sup>18</sup> court discovered that The Preamble and Art thirty-eight of the Constitution envision social justice because the arch to make sure life to be meaningful and liveable with human dignity. The Constitution commands justice, liberty, equality and fraternity as supreme values to inaugurate the egalitarian social, economic and political democracy. Social Justice, equality and dignity of person are cornerstones of social democracy. The thought of “social justice” that the Constitution of Asian country engrafted consists of various principles essential for the orderly growth and development of temperament of each national. “Social Justice” is thus AN integral a part of “Justice”. The which means of the expression is additionally brought out by Article 46, that aims at protective the weaker section from „ Social injustice“ Provision during this behalf are created in Article 15(4),16(4), 19(1)(d)(e), 275,330,335.<sup>19</sup>

## **JUDICIARY VIS-À-VIS SOCIAL JUSTICE**

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<sup>13</sup> Air india statutory corpn. Vs. United labour union (1997) 9 SCC 377

<sup>14</sup> Babu ram L. Vs raghunathji maharaj, AIR 1976 SC 1734 (para 1)

<sup>15</sup> Indra shwhney v union of india, AIR 1993 SC 1734

<sup>16</sup> AIR 1952 SC 252

<sup>17</sup> Consumer education and research center v. UOI, AIR 1995 SC 922

<sup>18</sup> AIR 1997 SC 654

<sup>19</sup> Sandhuram bansal v. Pulin bihari sarkar, AIR 1984 SC 1471

After our independence a major modification has occurred within the role of judicial method in our society. Judicial activism figures conspicuously within the up to date Asian country with active help of social activists and public interest litigators for vindication of the governmental commitment to welfare and social justice. One of the meanings of broad interpretation is that the perform of the court isn't simply to interpret the law however to form it imaginatively sharing the fervour of the Constitution for social and economic justice.

The **Maneka Gandhi**<sup>20</sup> case within which basic right of non-public liberty has been regenerate into a regime of positive human rights unknown in previous constitutional diction. Thereafter, step by step the Supreme Court, particularly some socialist justices tried to explore social justice in our basic Rights and Directive Principles of State Policy. In this manner, the courts try and force the govt to appreciate the new thought of social justice within the cases of:

- ❖ **Sunil Batra VS. Delhi Administration**<sup>21</sup>(right against torture);
- ❖ **Bandhua Mukti Morcha VS. Union of India**<sup>22</sup>(right against bondage);
- ❖ **People's Union for Democratic rights VS. Union of India**<sup>23</sup> (right against bondage);
- ❖ **Olga Tellis VS. Mumbai Municipal Corporation**<sup>24</sup>(right to livelihood);
- ❖ **M.C. Mehta VS. Union of India**<sup>25</sup>(right against environmental pollution),
- ❖ **Upendra Baxi VS.State of Uttar Pradesh**<sup>26</sup>(right to human dignity),
- ❖ **Sheela Barse VS. Union of India**<sup>27</sup>(right to legal aid);
- ❖ **M.K. Sharma VS. Asian nation natural philosophy Ltd.**<sup>28</sup> (right to own safety and protection to the workers);
- ❖ **Sankar VS. Durgapur comes Limited**<sup>29</sup>(relying on Olga Tell is the court command that compelling an individual to live in sub-human conditions amounts to the getting rid of of his life);

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<sup>20</sup> AIR 1978 SC 597

<sup>21</sup> AIR 1980 SCR (2) 557

<sup>22</sup> 1984 3 SCC 161

<sup>23</sup> (1982) 3 SCC 235; AIR 1982 SC 1473

<sup>24</sup> AIR1986 SC180

<sup>25</sup> 1985 SC 652

<sup>26</sup> (1983) 2 SCC 308

<sup>27</sup> (1986) 3 SCC 596

<sup>28</sup> AIR 1987 SC 1792

<sup>29</sup> AIR 1988 Cal 136

- ❖ **Krishen Pattanyak VS. State of Orissa**<sup>30</sup>(victims of starvation deaths within the district of Kalahandi,Orissa);
- ❖ **Vishal Jeet VS. Union of India**<sup>31</sup>(child abuse and compelled prostitution);
- ❖ **M.C. Mehta VS. State of Tamil Nadu**<sup>32</sup> (right of kids against explicatory employment in venturous industries);
- ❖ **Delhi Judicial Service Association, Tis Hazari courts Delhi VS. State of Gujarat**<sup>33</sup>(also referred to as Nadiad case)
- ❖ **Banwasi Sewa Ashram v State of U.P**<sup>34</sup>, wherever adivas is and alternative backward category individuals used forest as their environs and means that of living and components of such forests were declared as reserved.

In these cases the judges maintain that in a very developing society broad interpretation is crucial for participative justice and also the bureaucrats still because the electoral representatives. Kerala Education Bill, the Supreme Court advocated a harmonious construction of the Fundamental Rights and also the Directive Principles. Art. 23 and Art. 24 mandate that no kid below the age of fourteen could also be employed in any manufactory or mine or engaged in the other venturous employment. These 2 Articles recently came up for construction before this Court in **People's Union for Democratic Rights vs. Union of India**<sup>35</sup>.

The Apex Court in **Ashok Kumar Gupta v State of U.P.**<sup>36</sup>, command that the term Social Justice may be a elementary Rights. Supreme Court in **Municipal Corporation of Delhi v feminine staff (Muster Roll)**<sup>37</sup>, the availability entitling maternity leave below the Maternity profit Act, 1961, even to girls performing on casual basis or on roll basis on daily wages and not solely to those in regular employment are in consonance with the belief of social justice and any competition against its contrary.

## CONCLUSION

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<sup>30</sup> (1989) AIR 677

<sup>31</sup> 31 AIR 1990, SCR (2) 861

<sup>32</sup> (1996) 6 S.C.C. 756

<sup>33</sup> AIR 1991 SC 2176

<sup>34</sup> 1992 SCC (2) 202

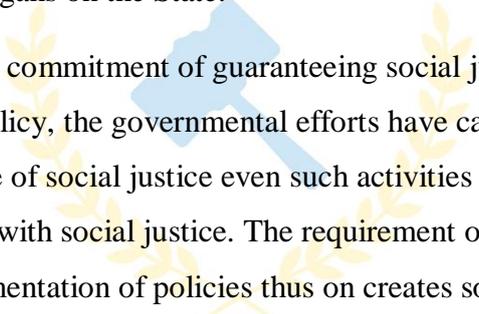
<sup>35</sup> AIR 1958 SC 956

<sup>36</sup> (1997)5 SCC 201

<sup>37</sup> (2000) 3 SCC 224

There is currently a robust want in Asian country to own a co-ordination between the manager and judicial organs of the State. Whenever there seems heat on any matters in our society, the assembly passes a law on it; however when passing of the law for need of implementation the individuals particularly the lots, ne'er see the sunshine from that heat. Thus, we'd like to develop a viable judicature by ever-changing our existing procedural law and taking necessary steps for correct implementation of laws together with timely filling from vacancies of the posts of judges all told courts. Law alone or the court alone cannot bring social justice. The event of delivery system of justice i.e. the judicature is a component and parcels of the programme of social justice that depends very much on correlation and coordination among the 3 organs on the State.

Despite the well-intentioned commitment of guaranteeing social justice through effort or protecting discrimination policy, the governmental efforts have caused some tension within the society. Within the name of social justice even such activities are performed that don't have anything to try and do with social justice. The requirement of hour is to ensure the correct and balanced implementation of policies thus on creates social justice a good vehicle of social progress.



# De Jure Nexus

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