

## THE CONCEPT OF SOCIAL JUSTICE SPECIAL REFERENCE TO INDIAN CONSTITUTION

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### **ABSTRACT:**

This Exploration Paper gives a total examination of the Civil rights, Indian Regulation, and the specific decisions, abuse of the opportunity and a lot more such perspectives. It has been arranged after a tremendous examination of Public statements, Official Records, Articles, Exploration Items, Meetings, and Contextual investigations. The idea of civil rights is a progressive idea which gives importance and importance to life and makes law and order dynamic. At the point when Indian culture tries to address the difficulty of financial imbalance by its regulation and with the help of law and order, it looks to accomplish monetary equity with no fierce clash. What is expected from a singular recipient of that request to a singular casualty? That question is responded to by the idea of civil rights: Consequently many states don't have this Law of Expense or Income Codes for the man The Idea of Civil rights.

**KEYWORDS:** Justice, Significance, Legislation, Norms, Indian Law, Discrimination, Poor Health, Sociology, Hayekian Theory.

## **INTRODUCTION:**

Social justice as a concept dates back to the early 19th century during the Industrial Revolution and subsequent civic revolutions throughout Europe, which aimed to create more egalitarian societies and reform capitalist exploitation of human labour.

Social justice is a political and philosophical concept that affirms that there are dimensions to the concept of justice beyond those encompassed by principles of civil or criminal law, economic supply and demand, or codes of conduct traditional ones. Social justice tends to emphasize fair relations between groups in society rather than individual moral justice or justice for individuals.

The idea of the welfare state is that the claim to social justice must be taken as cardinal and paramount. Social justice is not a blind ideology or a stupid doctrine. It seeks to do justice to all citizens of the nation.

According to Chief Justice Gajendragadkar. “In this sense social justice captures the goals of equal opportunities for every citizen in terms of social and economic activities and the prevention of injustice”. The Constitution of India has solemnly promised all its citizens judges-social, economic and political; freedom of expression, belief, faith and worship; equality of status and opportunity; and to promote in all the fraternity by affirming the dignity of the individual and the unity of the nation. The Constitution has attempted to reconcile the apparently contradictory claims of economic and social justice with individual rights and fundamental freedoms by laying down certain consistent provisions.

## **LITRATURE REVIEW:**

Navtej Singh Johar and Ors. Vs Union of India (UOI) and Ors. It was a landmark judgment. After years of grassroots activism, Article 377 was finally struck down as unconstitutional. This was a classic example of legislation being enacted to keep pace with society.

The very first case of cybercrime in India was Yahoo Vs Akash Arora To curb the growing internet crimes in their budding phase, The Information and Technology Act, 2000 was passed.

In the case of Anuradha Bhasin and Ors. Vs. In Union of India (UOI) the Court recognized the right to Internet as a fundamental right under Article 19 of the Indian Constitution. All the cases mentioned earlier show a proper chronology where first the dynamics of social change and then to keep up with those changes, the law is changed.

## **OBJECTIVES:**

1. To Understanding Social Justice
2. To Study Justice Faced by Poor in India
3. To Understand Challenges in Social Justice and the Stands of India

## **HYPOTHESES:**

1. Social justice denotes the equal treatment of all citizens without any social distinction.
2. Democracy realizes that this problem which concerns a large number of citizens cannot be successfully met unless law is used wisely to restore balance to the economic structure and to remove the causes of economic inequality.

### Understanding Social Justice

Social justice forms the basis of cultural economic systems and is also taught in some religious traditions. In general, social justice originated as a broad concept that supported equal rights through special provisions for citizens. Social justice is closely related to the concept of conflict and the redress of perceived wrongs of past or ongoing conflicts between social groups and communities. This often focuses on supporting the interests of particular groups among people whose supporters consider them oppressive or undermining the interests of groups they consider oppressive in some way.

Efforts to promote social justice often target diverse populations, or promote their interests in order to counteract perceived oppression or punish them for perceived past crimes. Broadly speaking, demographic characteristics commonly targeted by social justice concerns include: race, ethnicity, and nationality; gender and sexuality; age; religious affiliation; and disability. Different types of social justice programs may exist to promote equality or redistribute power and status among groups in the areas of wealth, health, welfare, equality, privilege, and economic status. In economic terms, social justice often consists of efforts to redistribute wealth, income, or economic opportunity from privileged groups to disadvantaged groups.

Social justice advocates can seek to achieve their goals through a wide range of peaceful or non-peaceful means, including various government programs, social campaigns, lobbying, violent revolution, or even terrorism . . . . At the state level, social justice initiatives can be pursued through a variety of different initiatives. These may include direct redistribution of

wealth and income; protected legal status in employment, government subsidies, and other areas for disadvantaged groups; or legal discrimination against privileged groups to the extent of including expropriation, general punishment, and purification.

Socialist and communist policies focus on nationwide social justice programs. However, social justice also has its place in capitalist societies, such as the U.S., where government funding is provided to support many social justice efforts. In these types of organizations, social justice concerns are often also pursued through lobbying aimed at changing government policy or directly influencing people's behavior through rallies and public demonstrations, social campaigns and people, targeted investments, and philanthropic donations and relief efforts. It can also take the form of deportations, blacklisting, and censorship of groups and individuals of shelter, clothing, food, access to developmental means, employment; education, health, and resources; social and political participation (enabling or empowering means), which is based on the guarantee of fundamental rights; of which “justice as a political programme” becomes a viable reality. We therefore require a study based on select illustrations of various issues relating to government policies on topics such as:

- (a) the right to food and water;
- (b) housing, which includes resettlement and rehabilitation;
- (c) access to education,
- (d) access to health and healthcare provisions,
- (e) the right to work, and
- (f) access to information and the right to communication.

In short, one of the important ways in which the inquiry will proceed will be through taking stock of various forms that have occasioned the articulation of ideas of social justice. Governmental justice consists of various welfare schemes, law, legal literacy, administrative forms of arbitration such as courts, boards, courts, public interest litigation, new legal education, plus the constitutional idea of protection of weaker sections of society and introduction of positive discrimination .

### **Justice Faced by Poor in India**

The constitution of India was adopted on November 26, 1949. Some provision of the constitution came into force on the same day but the remaining provisions of the constitution came into force on January 26, 1950. This day is referred to as the “date of its commencement”, and celebrated as the Republic Day. The Indian Constitution is unique in its contents and spirit. Through borrowing from almost every constitution of the world, the Constitution of India has several salient features that distinguish it from the constitutions of other countries. Social justice denotes the equal treatment of all citizens without any social distinction based on caste, colour, race, religion, sex and so on. It means absence of privileges being extended to any particular section of the society, and improvement in the conditions of backward classes (SCs, STs, and OBCs) and women.

Social Justice is the foundation stone of the Indian Constitution. Indian Constitution makers were well known to the use and minimality of various principles of justice. They wanted to seek such a form of justice which could fulfill the expectations of a whole revolution. Pt. Jawahar Lal Nehru put forward an idea before the Constituent Assembly “The first task of this assembly is to make India independent by a new constitution through which starving people will have complete food and clothes, and every Indian will have best option that he can progress himself.”

This vice of social inequality assumes a particularly reprehensible form in relation to the backward classes and communities which are treated as untouchable; and so the problem of social justice is as urgent and important in India as is the problem of economic justice. Equality of opportunity for all citizens to develop their individual personalities and to participate in the pleasures and happiness of life is the goal of economic justice. The concept of social justice thus takes within its sweep the objectives of removing all inequalities and affording equal opportunities to all citizens in social affairs as well as economic activities. The problem of poverty and unequal distribution of wealth may be confined to the bigger cities and towns in India but the problem accentuated by the vice of social inequality existing in a gross form prevails in all of our villages. For instance, the harijans constitute a large class of landless laborers who are treated as untouchables by the rest of the community, who have no house to live in, generally no clothes to wear, who do not have food to eat & sometimes even decent drinking water is beyond their reach. The poor also have no access to legal assistance. Poor people are vulnerable to injustice. Poverty fosters frustration, ill feeling and a brooding sense of injustice. Democracy realizes that this problem which concerns a large number of citizens

cannot be successfully met unless law is used wisely to restore balance to the economic structure and to remove the causes of economic inequality.

### **Challenges in Social Justice and the Stands of India**

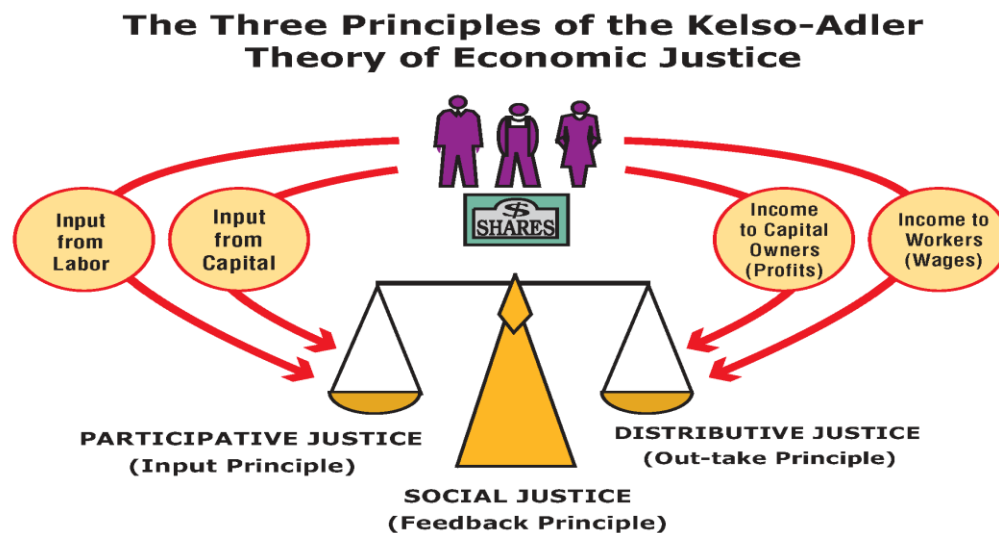
After 40 years of independence, 8 Five Year Plans, hundreds of laws leading to a veritable forest of rules offering a variety of special facilities to the underprivileged ranging from scheduled castes and tribes to women, in matters of education, employment, housing, etc. social justice is far from a reality. 53% of over 965 million people are below the poverty line i.e. unable to spend even a dollar a day on bare necessities. A mere 16% of households enjoy the „luxury“ of electricity, drinking water and toilet facilities. This percentage is 3.9% if only rural households are taken into consideration. 71% of our women are illiterate. Barring a few states like Kerala and Tamil Nadu, rural health care is a sham and almost non-existent. Then there is the problem of the millions of the educated unemployed. Though in any society some form of inequality is unavoidable, the persistence of large-scale economic disparities and the undignified living conditions of millions of Indians is a reality that cannot be overlooked. The satisfaction of a set of basic needs must have the highest priority, for, without food, shelter, clothing, health care and primary education a person does not become a human being. The widespread caste prejudices and the continuing discrimination against the lower castes are a threat to social stability and peace.

The conception of social justice also encompasses firm commitment to the protection of human rights and civil liberties. Disabilities and problems of other groups such as the physically disabled, child labour; tribals and those affected by environmental pollution also form the social justice agenda. And these are India's most critical problems. These are at the root of much of the political unrest, social and ethnic conflicts, and the growth of collective violence and the weakness of democratic structures in our country. The social and educational backwardness of a vast section of the population inhibits its participation in the process of social and economic development, not to mention human development. Therefore, the reduction of discriminatory social practices is an important part of the movement for social justice. Women suffer from historical, social and economic disadvantages. Even among the other categories of deprived communities, they are the most deprived group. A liberal society must attend to demands of gender justice seriously.

The Constitution of India has solemnly promised to all its citizens rights-social, economic and political; freedom of thought expression, belief, faith and worship; equality of status and of opportunity; and to promote among the whole fraternity assuring the dignity of the individual and the unity of the nation. The Constitution has attempted to attune the apparently conflicting claims of socio-economic justice and of individual liberty and fundamental rights by including some relevant provisions. Article 19 enshrines the fundamental rights of the citizens of this country. The seven sub-clauses of Article 19(1) guarantee the citizens seven different kinds of freedom and recognize them as their fundamental rights. Article 19 considered as a whole furnishes a very satisfactory and rational basis for adjusting the claims of individual rights of liberty and the claims of public good. The caste institution in our society is very effective which is not the phenomenon in western countries is. In such circumstances, can we reap the fruits of the system which we have adopted? The main objectives of social justice are compulsory and equal education, casteless society and employment to each. Economic exploitation is also a major factor and all these do not allow the true realization of democracy. When India is going through social and caste discrimination, economic crisis, unemployment, communalism and lack of basic needs, a party of substance and difference is needed which acknowledges and addresses the problems of social and economic deprivation. Meaning of 'Justice' does not need to be further defined and it is committed to giving justice to all those who have been or are being denied.

Articles 23 and 24 provide for fundamental rights against exploitation. Article 24, in particular, prohibits an employer from employing a child below the age of 14 in any factory or mine or in any other hazardous employment. Article 31 makes a specific provision in regard to the fundamental right to property and deals with the vexed problem of compulsory acquisition of property. Article 38 requires that the state should make an effort to promote the welfare of the people by securing and protecting as effectively as it may a social order in which social, economic and political justice shall inform all institutions of national life. Article 39 clause (a) states that the State shall ensure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular provide free legal aid, by suitable legislation or schemes, or in any other way , to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities. Article 41 recognizes every citizen's right to work, to education & to public assistance in cases of unemployment, old age, sickness & disability and in other cases of undeserved want. Article 42 stresses the importance of

securing just and humane conditions of work & for maternity relief. Article 43 holds before the working population the ideal of the living wage and Article 46 emphasizes the importance of the promotion of educational and economic interests of schedule castes



Source: Centre for Economic and Social Justice (CESJ)

### **FINDING:**

Unless the spirit of the age inclines to progressive values, sooner or later those values will be discarded by the judiciary and this is evident in the early nineties. The judiciary can give powerful impetus to broader social justice frameworks where the relationship of courts to other institutions is a binding union of instrumental rationality. The 21st century is perhaps coming. Answer the question of whether our society is willing to reject its current anti-institutional component and put a new trust in institutions for social justice other than the courts.

### **RECOMMANDATION:**

Justice and liberty would make justice. And equality and freedom in their play would be reflected in “equality”. “Brotherhood” would be just a nightmare or just a wish but one of justice, liberty and equality. The Executive as well as the Legislative branch of our State still

fail to show their clear concern to develop a flexible legal system which is crucial to achieve social justice.

### **CONCLUSION:**

Based on the above discussion I may conclude that the exercise of social justice requires a territorial, social, political and cultural framework within which the relations between individuals and groups can be understood, evaluated, and recognized as fair or unfair. At the same time, there is clearly a universal dimension to social justice, with humanity being the same. To support the notion of social justice is to argue for the reconciliation of these priorities in the context of a broader social notion in which individuals endowed with rights and freedoms operate within a framework of duties and responsibilities associated with belonging to society . Unless there is justice, liberty is not meaningless, and liberty would exist without justice.

There is therefore now a pressing need in India to have cooperation between the executive and judicial branches of the State. Because there is no dearth of social legislation in India. What is happening in the matter of most of the Social Reform Acts in India it seems to this writer that whenever there is a visible heat on any subject in our society, the legislature passes a law on that subject; but after the passage of the law for lack of enforcement by the people, especially by the masses, they do not see the light coming from that spark. So we need to develop a viable judicial system by amending our existing procedural law and taking necessary measures for effective law enforcement including timely filling of vacant judicial posts in all courts. Laws alone or courts alone cannot bring justice to society. The evolution of the delivery of justice system ie. the judicial system is part of the social justice agenda which depends heavily on the cooperation and coordination between the three institutions at the State because to travel alone is to work in vain.

**REFERENCES:**

1. <http://ijlljs.in/wp-content/uploads/2015/01/D04.pdf>
2. [articles.manupatra.com](http://articles.manupatra.com)
3. [socialjustice.gov.in](http://socialjustice.gov.in)
4. <https://www.jstor.org/stable/41856262>