



Human rights at the heart of social justice

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Abstract

Social justice refers to equal distribution of wealth, opportunities, and other privileges, and human rights as provided under the Universal Declaration of Human Rights (UDHR) are the rights that belong to humanity. These concepts are important in managing this increasing trend of inequalities that is evident both within and between countries across the world.

Though legal reforms have occurred but discriminations based on sex and caste still continue to exist. Such social taboos along with poverty are acting as a major barrier in achieving the constitutional goal of social justice in India.

The research paper will also provide strategies for the better implementation of human rights and social justice in Indian and global policy-making and governance. Overcoming such challenges is crucial for the country's development and in achieving the Sustainable Development Goals, especially engaging in global peace, democracy, and development as global peace and stability directly refers to harmony between humans and is essential for overall growth and development of mankind.

Methodology: The study is doctrinal in nature and tries to understand the principles and application of human rights in concurrence with social justice.

Purpose: This paper aims to explore the journey from rights to reality by examining the interplay between human rights and social justice in India, highlighting key legal provisions, international commitments, and the socio-political challenges that impede the realization of true equality. By analysing landmark cases, legislative frameworks, and real-world scenarios, the paper seeks to offer a comprehensive understanding of the gaps and propose actionable solutions to bridge them.

Keywords: Human rights, social justice, equality, technology, digital justice

Introduction

In modern democratic societies, the concepts of human rights, equality, and social justice form a cornerstone of governance, aimed at ensuring dignity and fairness for every individual. Human rights are the inviolable rights that belong to all, irrespective of their nationality, gender, race, ethnicity or religion. Social justice, on the other hand, focuses on creating an equitable society where opportunities and resources are distributed impartially. While these principles are enshrined in legal frameworks both nationally and internationally, a significant gap often exists between the rights promised on paper and the lived reality of marginalized populations.

India, with its diverse culture and intricate socio-economic system, offers an intriguing environment for examining this disparity. The Indian Constitution approves the Directive Principles of State Policy (DPSPs) and Fundamental Rights as tools for advancing equality and social justice. There are many concepts like equality^[1] and liberty^[2] are critical in this context, aiming to guarantee a life of dignity and fairness for all citizens. Yet, despite these robust legal frameworks, challenges persist in translating these rights into reality for large sections of society, particularly for marginalized communities such as women, Scheduled Castes (SC), Scheduled Tribes (ST), and LGBTQ+ individuals.

A wide basis for human rights is provided by international frameworks such as the Universal Declaration of Human Rights (UDHR)^[3], approved by the UN General Assembly in 1948 and has an impact on the legal systems of many nations, including India.

This paper aims to explore the journey from rights to reality by examining the interplay between human rights and social

justice in India, highlighting key legal provisions, international commitments, and the socio-political challenges that impede the realization of true equality.

The Evolution and History of Social Justice and Human Rights

1. Global Evolution

Human rights have a long history and have changed considerably over the centuries. Foundational texts such as the Magna Carta (1215)^[4], which established the rule of law and curtailed monarchical power, gave rise to early ideas of rights. These ideas evolved further in The French Declaration of the Rights of Man and of the Citizen (1789)^[5], which established the broad scope of human rights and laid basis for contemporary democracies.

Following World War II, a pivotal moment in the evolution of human rights occurred. The atrocities of the war brought to light the need for a universal foundation, leading to the 1948 adoption of the Universal Declaration of Human Rights (UDHR). With its thirty provisions, the UDHR laid the groundwork for further international agreements, such as: Individual liberties, including the right to equality before the law, freedom of speech, and the right to life, are emphasised by the International Covenant on Civil and Political Rights. Socioeconomic rights, such as right to employment, education, and sufficient living standard, are the focus of the International Covenant on Economic, Social, and Cultural Rights. Equality among gender is addressed by the historic Convention on the Elimination of All Forms of Discrimination Against Women.

2. Indian Evolution

India's fight for independence is closely linked to its path towards social justice and human rights. Social justice was

stressed by leaders such as Mahatma Gandhi and B.R. Ambedkar, especially when it came to combating caste prejudice and colonial oppression. Social justice is enshrined as a key objective in the Indian Constitution. The preamble declares social, economic, and political justice to be a primary goal. Articles 14-18 of the Fundamental Rights (Part III) ^[6] protect equality and forbid discrimination on the basis of race, religion, caste, sex, or place of birth.

International Human Rights Instruments Ratified by India

The Universal Declaration of Human Rights, 1948 ^[7] (UDHR): The core of international human rights law is the UDHR and has impacted the creation of legally binding treaties and national constitutions around the world, including ours and The Indian Constitution's Fundamental Rights and Directive Principles of State Policy contain UDHR's tenets as we can see Article 7 of the UDHR is reflected in Article 14 (Equality before the law) and Article 3 of the UDHR is consistent with Article 21 (Right to life and personal liberty).

The International Covenant on Civil and Political Rights (ICCPR, 1966): ^[8] The right to life, freedom of speech, and immunity from torture are among the civil and political rights protected by the ICCPR. In 1979, India ratified the ICCPR. Inherent in the Constitution are numerous ICCPR rights, including, Article 19 provides protection for the right to free speech and expression and Articles 21 and 22 (protection against arbitrary arrest and detention) reflect the right of a fair trial ^[9].

The International Covenant on Economic, Social, and Cultural Rights (ICESCR, 1966): ^[10] Socioeconomic rights, such as the right to employment, education, health care, and a sufficient quality of life, are the main focus of the ICESCR. Important laws that support ICESCR include: Article 13 of the ICESCR (right to education) is fulfilled by the Right to Education Act of 2009. Article 11 (the right to a sufficient standard of living) is in line with the National Food Security Act of 2013.

Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW, 1979): ^[11] The historic CEDAW treaty aims to advance women's rights and abolish gender discrimination. India has passed a number of laws to defend women's rights after ratifying CEDAW in 1993, including 1961 Dowry Prohibition Act, Domestic Violence Act (2005) Act on Maternity Benefits (1961, revised in 2017).

Convention on the Rights of the Child (CRC, 1989): ^[12] Children's rights, such as the rights to health care, education, and protection from exploitation, are the main focus of the CRC. In 1992, India validated the CRC and passed a number of legislations protecting children. The Right to Education Act, 2009 and the Protection of Children from Sexual Offences (POCSO) Act, 2012.

Challenges in Meeting International Commitments

Despite India's significant attempts to bring its domestic legislation into compliance with international human rights, a number of obstacles still exist:

Caste discrimination: Even though it is illegal, caste-based violence frequently occurs, which suggests that enforcement

is lacking. Gender Inequality: Persistent differences in health, work, and education are highlighted by India's place in the Global Gender Gap Report ^[13]. Public Distribution System (PDS) leakages: In spite of improvements, food security for underserved populations is impacted by corruption in PDS delivery. Court Delays: Access to justice is hampered by the backlog of litigation in Indian courts. When it comes to obtaining legal remedies, marginalised groups frequently encounter major obstacles.

Indian Legal Instruments

India has a strong and diverse legal system that supports human rights and social justice. It is based on legislative actions, constitutional obligations, and active judicial interventions. The Indian Constitution, which is frequently praised as a social instrument, demonstrates the country's dedication to establishing a just society.

Constitutional Provisions: The Foundation of Social Justice

The foundation human rights and social justice in India is the Constitution. It offers a thorough framework for defending personal liberties and advancing equality. Article 14 ^[14] India's commitment to justice for everyone is based on Article 14, which guarantees equality before the law and equal protection under the law. This equality principle requires that everyone be treated equally and guarantees that no one is above the law. Indira Nehru Gandhi vs. Raj Narain (1975) ^[15] the Supreme Court ruled that any law that violates equality will be overturned since it is a fundamental tenet of the democratic system. E.P. Royappa vs. State of Tamil Nadu (1974) ^[16] the court maintained that the rule of law must be upheld in order to maintain social justice, stressing that equality is in conflict with arbitrariness. Article 15 ^[17] discrimination based on religion, caste, sex, ethnicity or place of birth is forbidden by Article 15. Every citizen gets equal access to public areas and opportunities thanks to this article, which promotes inclusion. **State of Madras vs. Champakam Dorairajan** (1951). ^[18] This case led to amendment, which permits the state to provide specific measures for the advancement of underprivileged groups, hence facilitating reservations and affirmative action. Article 17 ^[19] Article 17 affirms the equality and dignity of all citizens by outlawing untouchability in all its manifestations. **People's Union for Democratic Rights vs. Union of India** (1982) ^[19]: The Supreme Court reaffirmed the need to safeguard marginalised communities by ruling that any kind of forced labour involving untouchability is illegal. The Protection of Civil Rights Act, 1955 makes practice of untouchability illegal, thus putting Article 17 into effect. Article 21 ^[20] The judiciary has broadly construed Article 21's provision of the right to life and personal liberty to encompass the right to a clean environment, education and dignity. **Maneka Gandhi vs. Union of India** (1978) ^[21] This historic ruling broadened the application of Article 21 by stating that the right to life includes more than just survival; it also includes a dignified existence. **Francis Coralie Mullin vs. The Administrator, Union Territory of Delhi** (1981) ^[22] The court expanded the scope of human rights by ruling that right to life encompasses the right to live with dignity.

Legislative Initiatives: Moving from Rights to Reality

A variety of legislative measures that seek to address structural injustices and advance social justice are intended

to supplement constitutional provisions. The Protection of Civil Rights Act, 1955, in an effort to abolish untouchability and preserve the dignity of underprivileged groups, this Act was among the first laws to implement Article 17. It makes discrimination illegal in a number of ways. The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 often referred to as the SC/ST Act, this law attempts to stop crimes against Scheduled Tribes (STs) and Scheduled Castes (SCs). For crimes against these communities, it establishes special courts and harsh penalties. The Right to Education (RTE) Act, 2009, Article 21A, which requires free and compulsory education for children aged 6 to 14, is operationalised by the RTE Act. It seeks to guarantee that all children have access to high quality education and to close educational gaps.

Judicial Activism: Supporting Human Rights

In India, judicial activism has been crucial in interpreting and extending the reach of human rights, frequently filling the gaps left by legislative or executive action.

Kesavananda Bharati vs. State of Kerala (1973) ^[22], this important ruling established the Basic Structure Doctrine, which states that constitutional amendments cannot change or weaken essential rights. The fundamental principles of the Constitution, such as equality and social justice, are protected by this philosophy. *Navtej Singh Johar v. Union of India (2018)* ^[25], this ruling invalidated Section 377 of the Indian Penal Code, decriminalising homosexuality. In a landmark decision for social justice, the Supreme Court upheld LGBTQ+ people's right to equality and dignity. *Vishaka vs. State of Rajasthan (1997)* ^[23], the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 was based on rules established by the Supreme Court in this case to prevent sexual harassment in the workplace.

Technology and Human Rights: Digital Justice

Technology has become a potent instrument for advancing social justice and human rights in the twenty-first century. From social media activism to digital governance projects, technology presents previously unheard-of chances to close the gap between social reality and legal frameworks. But there are drawbacks as well, such as digital gap, privacy issues, and data misuse. This section examines how technology can advance social justice, with an emphasis on global trends and India's experience. Role of Technology in promoting social justice is by enhancing access to information, by legal tech with access to justice and by using online portals.

Bridging the Digital Divide

Despite the enormous potential of technology, the digital divide, the difference between those who have access to it and those who do not, remain a significant obstacle, especially in unreserved and rural areas. Initiatives to Close the Gap: The Bharat Net Project intends to connect all Indian villages to high-speed internet, making it easier for them to access government services and educational materials. Programs for Digital Literacy: Pradhan Mantri Gramin Digital Saksharta Abhiyan (PMGDISHA) is one initiative that aims to make every family at least partially digitally literate.

Comparison with Other Countries

South Africa: Post-apartheid South Africa Significant progress has been achieved in South Africa to increase

educational access, especially for Black South Africans. Similar to India's problems, there are still quality differences between public and private schools. Finland: Well-known for its excellent educational system, Finland does not divide students according to ability and places a strong emphasis on equitable access. This makes the playing field level. In contrast, India's educational system is still very hierarchical, with notable distinctions between prestigious private schools and government schools. Promoting social justice requires closing this disparity.

Conclusion

India's path to social justice and human rights is a convoluted and dynamic one, replete with both notable successes and enduring obstacles. The nation's strong dedication to equality, decency, and inclusivity is reflected in its strong constitutional framework, legislative efforts, and active judiciary. The cornerstones of India's social justice framework are fundamental clauses such as Article 14 (Right to Equality) and Article 21 (Right to Life and Personal Liberty). In order to address systemic injustices and empower marginalised populations, including as Dalits, Adivasis, women, and LGBTQ+ people, landmark laws like the Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act and the Right to Education Act have been essential. The difficulties in converting legal frameworks into lived realities are shown in the continued socioeconomic hurdles, violence, and prejudice faced by marginalised communities. Caste-based discrimination, gender inequality, and economic disparities continue to exist despite constitutional protections, especially in unreserved and rural areas. India's adherence to international human rights norms is demonstrated by its ratification of important human rights treaties including the ICCPR and CEDAW. However, it is still difficult to match domestic policy with these pledges. Lessons can be learnt via comparisons with other nations. While nations like South Africa and Finland emphasises the necessity of focused social welfare programs and reconciliation procedures and educational system. India must prioritise improving social inclusion, expanding educational and economic possibilities, and fortifying implementation mechanisms in order to close the gap between rights and reality. To achieve the goal of a just and equitable society, cooperation between the government, civil society, and foreign partners is crucial

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