

Original Article

The Intersection of Social Justice

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Abstract

The notion of social justice is not new concept. In today's century, it is a settled fact that in 'justice', social justice i.e. at community level justice is deeply rooted. To ensure effective social justice is the prime and apex mission and vision of the court system. Social justice is one of the central objectives of our supreme law of land i.e. Indian Constitution. Still the crucial concept like social justice is unclear and unspecified perception hence no fixed and definite definition of it can be adopted in all situations. The idea of social justice does not originate from the imaginary concepts of any certain judge but must be initiated on a more solid footing. Importance and value of social justice cannot be ignored in relations with any of the aspects of society. Social justice means to eradicate social inequities by law balancing the competing claims, the welfares of different groups and segments in the social scheme or individuals. In this way it would be possible to build a social justice-based welfare state. The model of economic justice is to make equivalence of status meaningful and the life worth living at its best eradicating variation of opportunity and of status of all forms i.e. social, economic and political. After independence, the perception of social justice has become an unavoidable and inseparable part of Indian legal system. Value and importance of democratic ways of life have been creased due to the acceptance of concept of social justice. It has made social life more alive and of worth. To achieve the concept of welfare State would be next to impossible without ensuring Social Justice. Collective positive contribution and active involvement of all the concerned stakeholder of justice administrative system i.e. legislatures, executive, judicial, advocates' community, society at large, legal institutions, NGOs's media and press etc. is required to make the goal of social justice a reality.

Keywords: Social Justice, Indian Constitution, Judiciary, Economic Justice, Political Justice, Welfare State, Human Rights, Rule of Law, Democratic Values, Legal System

Introduction

The notion of social justice is not a new concept in legal and constitutional discourse. It has always remained central to the idea of justice, emphasizing fairness and equity at the community level. In the Indian context, social justice is deeply embedded in the constitutional framework and is one of the supreme objectives of the legal system. Ensuring effective social justice is not only the mission of the judiciary but also a collective responsibility of all stakeholders, including the legislature, executive, legal community, media, and society at large. Social justice aims to eradicate inequalities, balance competing claims, and ensure equitable distribution of opportunities, status, and resources. The concept extends beyond legal formalities and technicalities; it represents a moral commitment to protect the weaker and vulnerable sections of society. By linking justice with the principles of democracy, equality, and dignity, social justice becomes the foundation of a welfare state. It is both a constitutional mandate and a societal necessity, making its implementation vital for sustaining democratic values and holistic development.

Meaning and Nature: A common question should come in our minds i.e. What exactly the social justice is? Is it a notion decorated by an individual adjudicator? If yes, then notions of social justice would change from adjudicator to adjudicator throughout the territory of India.



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The judicial interpretation makes it quite clear that to encourage effective balance between ethical values and economic justice, the concept of social justice brings the balance of regulations of the several interests involved in the social and economic structure of the State. There is no formalized method or any magical charm in the notion of social justice. It just expects that between two parties if a deal is made with one party without grave injury to the other, then the Court would lean in favour of the feebler segment of the society. Social justice is the acknowledgement of greater benefits to larger number without violation of any legal provisions or legal rights. In fact, in most of the cases and situations social justice should overcome over any technical rule. Time and situations where largest good of largest number of people is needed the real justice i.e. social justice should be preferred rather than technical rules and procedure. Hence, considering the concept of social justice the court allowed the licenses to continue their business¹.

In a case Justice Krishna Iyer² had explained about the guiding force for courts/judiciary to be considered while dealing with the questions of nature, scope and need of social justice. It was pointed that -

1. Law is not a weapon bound by traditional practices and mere formalities but it is an art that is alive and authentic by and under the supreme law of land i.e. Constitution of India.
2. Law is an instrument to ensure a pacific 'civil revolution' that required fair, reasonable and adequately treatment with all the sectors of society including the weaker sector like the working class.
3. The true social justice principles of the Constitution influence the understanding of laws and ignoring or undervaluing such crucial concept would surely result into weakening the backbone of our nations i.e. Democracy, rule of law and socialist republic features.

Judicial interpretations as to the meaning of social justice: The idea of social justice is the ground norm to the justice administration system. Even it was pointed by jurist Roscoe Pound. He had explained the inter connectivity and inter dependability of society and law. In this context the courts are duty bound to read, interpret and apply law depending upon case to case and situation to situation because laws are supposed to be made for society and benefit of all the sectors of society. Though there is no any specific definition/meaning to the concept, however the Judicial mind would definitely help us to understand more about the various aspects of social justice.

- i. The Supreme Court once observed that³ social justice, equality and dignity of person are keystones of social democracy. Our Constitution has implanted the notion of social justice and that includes varied principles needed for proper and effective progress and expansion of every individual. Social justice is a lively tool to mitigate the problems of the poor, weak, Dalits, Tribals and deprived sections of the society so that all would be able to enjoy their lives with sense of equality and human dignity. It would be wrong to consider the concept of social justice as a simple or single idea. Because in-fact this is an crucial part of composite social transformations. The ultimate object of social justice is to achieve extensive level of social, economic and political equality. This will definitely help to cope with legitimate expectations of various sectors of the system. Along-with the other elements of social justice the court in this case added aspects like social security, just and humane environments of labourers and freedom to workman etc. to make once life meaningful and dignified. The court entrusted the duty on State to ensure such social securities to all.
- ii. In a case⁴ Justice Krishna Iyer observed that "Social justice is our Constitution morality and the State is trustee to ensure all kinds of justice. It helps to maintain and increase the public faith on the fairness and effectiveness of existing system. Social conscience is an alive notion rather than an artificial one.
- iii. The court observed⁵ that the scheme of law and constitutional law is not opposite and negative but positive and supportive for being principled value based towards the goal of social development of the nation.
- iv. In Chameli Singh case⁶ court gave reference to Article 11(1) of the International Covenant on Economic, Social and Cultural Rights, 1966 and emphasised over the common right of having satisfactory living standard including right to food, clothing, housing, medical and social justice. The court also highlighted the duty of the State to ensure the same.
- v. Once our Supreme Court observed⁷ that by virtue of preamble of our Constitution social and economic justice has been secured to each and every citizen to promote dignity of individual however this this freedom is also subject to certain terms for effective regulation of justice. Court gave reference of provisions that are crafted to promote the welfare of the people by securing social and economic justice to the weaker sections of society i.e. Article 37⁸ of Part IV that declares the rights i.e.

fundamental law in the governance of the country and Article 39(b)⁹ which enjoins that the ownership and control of the material resources of the community should be properly regularised.

- vi. In D.S. Nakara case¹⁰ the court was of the view that the fundamental agenda of socialism is to deliver effective and satisfactory standard of life of the people. It also includes security from cradle to grave and it is the duty of the State to try to implement such provisions.
- vii. The Court made it clear that notion of social justice is to wide, one-sided and precise. It is not limited to industrial welfare whereas it is inclusive. It is originated from the ideal of socio-economic equality objected to abolish social differences and disparities¹¹.
- viii. The Court observed¹² that the idea of social and economic justice is an alive concept that results into revolutionary. It gives meaningful reality to the rule of law and constitutionalism.
- ix. The idea of social justice has moulded and transformed the role of judiciary. Judiciary is bound to be creative i.e. functions to ensure true social justice and socio-economic. It cannot endure to act merely as an referee but it must be actively and positively involved in achieving the target of socio-economic justice¹³.
- x. The idea of social justice makes the courts' duty bound to deal positively and effectively within the constitutional scheme. Specially the preamble of constitution contains the roots of social justice and directions for the courts to work towards the same.
- xi. Idea of social justice is also substantially connected with economic justice and political justice too. In this context social elements and the economic features are the supreme goal of the welfare nation. Once again, the court emphasised the duty entrusted upon the State under the Constitution to endure social, political as well as economical security. Preamble is the searchlight enlightening the pathway to be followed in order to make the constitutional dream of setting up a sovereign, socialist, secular, democratic republic India¹⁴.

Constitutional place: Article 38 commands the State authorities to endeavor to establish the welfare of the people. It requires protection and regularisation of social order with characteristics of justice-social, economic and political fairness/wellbeing. It also emphasises that the national instrumentalities should be focused to eradicate dissimilarities in income, status, facilities, opportunities amongst various deferent individuals and social groups. Fundamental rights¹⁵ and

Directive Principles of State Policy¹⁶ collectively establish the constitutional morality to implant social uprising and rule of law. Part III and Part IV of the constitution need to be read and interpreted in such a way to result into law and social transformation time to time and effective legal system in the nation. Part IV plays the crucial role of guiding light for the judiciary to effectively interpret the entire constitutional scheme and constitutionalism elements thereof. Whereas Part III are crucial tools to the ultimate ends i.e. true justice.

Conclusion:

Social justice is the foundation pillar of advanced stability of the society and human community. 'Justice' is the ultimate central point of each and every law of the India must be administered jointly and collectively by various stakeholder of the system. However, the idea of 'justice' is not having any four cornered definitions so as to maintain the true nature and importance of 'justice'. Hence, justice has to exist along with the society which is never constant and passive. In this context social justice is the key of social revolution and also to preserve the essentials of constitutionalism altogether with rule of law. In India we do have express sufficient constitutional provisions as well as legal provisions to move toward the social justice. However, the effective implementation of such provisions is the ultimate need of the day the duty of which is over all the stakeholders of the system i.e. governmental instrumentalities i.e. parliament, executive, judicial organs, education institutions, media group, and we the individual human being.

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Conflicts of interest

The authors declare that there are no conflicts of interest regarding the publication of this paper

Foot Notes:

1. Sadhuram Bansal v. Pulin Sarkar (2000) 6 SCC 493
2. LIC v. D.J. Bahadur (2009) 5 SCC 313
3. Consumer Education & Research Centre v. Union of India (2010) 3 SCC 192
4. Som Prakash Rekhi v. Union of India, (1981) 1 SCC 449
5. Jagdish Saran (Dr) v. Union of India (1980) 2 SCC 768
6. Chameli Singh and Others v. State of U.P. and Another (1996) 2 SCC 549
7. P.G. Gupta v. State of Gujarat and Others 1995 Supp. (2) SCC 182
8. The provisions contained in this Part shall not be enforceable by any court, but the principles therein laid down are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws.
9. That the ownership and control of the material resources of the community are so distributed as best to subserve the common good.
10. D.S. Nakara v. Union of India (1983) 1 SCC 305
11. J.K. Cotton Spinning and Weaving Mills Co. v. Labour Appellate Tribunal of India AIR 1964 SC 737
12. State of Mysore v. Workers of Gold Mines AIR 1958 SC 923
13. S.P. Gupta v. Union of India (1981) Supp SCC 87
14. Harjinder Singh v. Punjab State Warehousing Corporation (2010) 3 SCC 192
15. Articles 12 to 35: Enforceable by the Higher Judiciary through writs (Art. 32: Habeas Corpus, Mandamus, Prohibition, Quo Warranto and Certiorari)
16. Articles 36 to 51: Not enforceable by the Higher Judiciary through writs (Art. 37: Principles are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws.)

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3. Muir Mills Co., Ltd vs Suti Mills Mazdoor Union, Kanpur, 1955 AIR 170
4. Suresh Kumar & Ors. Dalmia Cement vs Union of India & Ors on 25 April, 1996