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**“CEMENTING THE NOTION OF SOCIAL JUSTICE BY  
ADOPTING CONSTITUTIONAL VALUES”**- Riya & Neelaksh<sup>1</sup>**ABSTRACT**

Indian democracy is the world's largest which embraces in a very clear way the achievement of social equality and justice within a very important target. Justice is often connected in the legal system to a presumption of fair treatment, equal rights and access. Social justice is a philosophy which the welfare state needs. In various clauses, the Indian Constitution adopts this definition, including a preamble in the form of 'Socialist,' 'Social along with monetary integrity,' 'impartiality,' etc., which explicitly states that the State has a long interest in people's social welfare and an effort to create an egalitarian society. Social justice ensures allocating equitable booty and responsibilities. Allocation is established on the assessment of dispute connecting the civil rights, calculated wants as well as resources. Indian Constitution solemnly guarantees it's all people, communal, financial and biased righteousness, freedom of conscience, speech, their principle, religion in addition to pattern of devotion, fairness in opportunity & position, also ones promotion of their dignity and towards the unity of the country in three sections among all people, i.e.

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Preamble, Fundamental Rights and Directive Principles. The scenario of social justice should be studied in two different forms of streams based on titles:

- Sustainable occupation, which suggests access to adequate means of livelihood, i.e. housing, clothes, rations, right to use developments, service, learning, wellbeing furthermore public services;
- Political and their social engagements which are based on securing constitutional rights and fostering and encouraging the right to government's involvement and with access to all existing means of integrity, on the basis of which 'justice as a supporting scheme' is a feasible fact. An overview of how social justice removes inequality and allows for the fair distribution of benefits by the provisions of the Indian Constitution has been rendered in this paper.

### **INTRODUCTION TO THE CONSTITUTION**

Constitution is the set of rules which deals with the political structure of the country. It is a document which describes the constitutional rights and duties of its citizens and the way in which it is governed. The country which does not have their constitution is known as a monarchical country. On 26<sup>th</sup> November, 1949 Indian Constitution was approved by the Constituent Assembly and it finally came into force with out-turn from January 26, 1950. Completing this historic task of drafting i.e. Constitution for Independent India, took nearly three years (to be precise, 2 years, 11 months, 18 days). Drafting Committee was headed under the chairpersonship of Bharat Ratna Babasaheb Dr. Bhimrao Ambedkar. India has the world's longest written constitution. This is due to the inclusion of elaborate provisions on Centre and State relations, the incorporation of different concepts such as Fundamental Rights, Directive

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Principles, etc. India's Constitution features a preamble along with 470 articles which are sorted into 25 components with twelve schedules and 5 appendices. The preamble can be referred to as the brief which highlights the entire constitution. In the written constitution, the constitutional amendments are very tough and as it require a special majority of the 2/3rd of the members of the House. Amendments made in written constitution can be reviewed by the court of law, which is termed as "Power of Judicial Review". There are three basic pillars of the government: -

a) Legislature- to make laws (b) Executive- to implement laws & (c) Judiciary- to protect laws.

The Indian Constitution provides a twin polity having transparent division of powers i.e. between the Union and the States each being supreme at the intervals of sphere assigned thereto. The relation between the centre and the state area unit divides as: - Legislative relation, Administrative relation and Financial relation.

### **CONCEPT OF SOCIAL JUSTICE**

The term "justice" undoubtedly means justice for the persons of sections basically deprived and weak in the society, bringing about an unrestricted society in which the weaker section is given numerous of opportunities.<sup>2</sup> Social Justice is found to be useful in its kind and flexible form to all. Though, there is no definition of social justice in our constitution, it is an ultimate factor of sentiment which is an objective of the charter. Feeling of societal integrity is a type of quantitative approach that is varied by people's moment, situation,

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<sup>2</sup> *Punjab National Bank v. Gulam Dastagir*, AIR 1978 SC 481.

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customs and goal. India's societal inequality expects an equal solution. The use of term "Social Justice" is acknowledged in a broader sense under Indian Constitution. This includes, Social & Economic justice. While formal definition of Social Justice varies in choice of words, there are commonalities among them which are: Equal rights, equal chance and equal treatment. With these core values in mind, we will outline the phrase as: - "Social Justice suggests the equal rights, chance and treatment for all". Social Justice can be explained as availableness of equal opportunities for the event of temperament to all or any of the individuals within the society, without any discrimination with caste, creed, race or gender. Nobody ought to be disadvantaged, as a result of a variation that squares measure essential for social development. Within its scope, social justice takes the objective of eliminating all inequalities and giving all their citizens equal opportunities in social welfare and in economic activities too.

Indian Constitution is based on the principals of Social Justice. Minimality of various principle of justice and its use were well known to the Indian constitutionalists. They decided to look for such a judicious form that could meet the needs of entire revolution. India's Constitution has solemnly guarantees its entire people for social, economic and political justice; their freedom of expression of thought, belief, religion as well as devotion, sameness in position & chance, endorsement of self-respect of the person & the unitedness of the community among all the fraternity. Through introducing some important clauses, the Constitution has sought to resolve the seemingly contradictory arguments of socio-economic justice of an individual equality and their constitutional rights. In *Consumer Education Research Centre v. Union of*

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*India*,<sup>3</sup> Justice K. Ramaswamy has expounded the notion of social integrity and observed:

“The philosophy of social justice embodied in India’s Constitution, the philosophy of diverse values central to every citizen’s orderly growth and personality development. Therefore, in a general sense, social justice is an integral part of society. Justice is a genus, in which one of its species is social justice. Social Justice is a complex tool for reducing the sufferings of the poor, vulnerable dalits, tribal and oppressed sections of the society and bringing them to the level of equality in order to live a life of human dignity. Social Justice is an important part of the matrix of social reform to alleviate the handicaps of the poor, etc., and to make their lives liveable for the common benefits of society as a whole.”

- **Social Justice Status: Pre India’s Independence**

It will be appropriate to investigate the present as well as the pre independence state of Indian laws for an evaluation of the sociological jurisprudence in its Indian context. The legislation was arbitrary, suppressive and insensitive to the feelings and needs of the Indian people during the British colonial rule in India. By dividing Indians on the basis of caste, ethnicity, faith, language and occupation, the British rulers paralyzed Indian’s peace and prosperity so that disputes between different groups could reach their selfish ends.<sup>4</sup>

- **Social Justice Status: Post India’s Independence**

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<sup>3</sup> 1955 AIR 922.

<sup>4</sup> N. V. Paranjape, “*Jurisprudence and Legal Theory*”, pg. 67 (6<sup>th</sup> ed. 2002).

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Public policy received a new momentum after the freedom. There was a substantial strengthening of rule of law and the legal system. India's Constitution was the principle impetus to make a range of legislation.

### **SOCIAL JUSTICE UNDER CONSTITUTION**

Social Justice is the principle which forms a welfare state. Social Justice issues with such rights which only has a societal effect that can be regulated from a wider perspective. Broadly speaking, every right has a social dimension because man as a member of the society is concerned with social justice rather than personal rights.<sup>5</sup> Themes and ideals of the socio-economic justice are clearly expressed in the Preamble to the constitution, in Part III as well as Part IV of the Constitution's guidelines principles. The Court in the case of *S.R. Bommai v. Union of India*<sup>6</sup> opined that "the basic functions of India's constitution are social justice and judicial reviews. The legitimacy of every legislation passed by the legislature was held to be contested against the touchstones of the Preamble, Constitutional Rights and Values of the Directives".

The seeds of the societal integrity that were seeded in the preface; furthermore as soon as we go to Part III and Part IV, they are in full bloom. Part III of the Constitution is said to comprise the Indian People's Bill of Rights. They were said to be the very cornerstone of the constitution driven democratic way of life in this country. Article 14, 15 and 16 make reference on equality before act and equally safeguarding the law. In addition to the preamble, the State

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<sup>5</sup> *Golak Nath v. State of Punjab University*, AIR 1967 SC 1643.

<sup>6</sup> AIR 1994 SC 1918.

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policy guiding principle enclosed in Chapter IV of the Constitution, expostulate the philosophy of social justice.

The Apex Court in *Workmen of Meenakshi Mills Ltd. v. Meenakshi Mills Ltd.*<sup>7</sup> ascertained that the Preamble to the Constitution declares the solemn resolve of the folks of Republic of India to secure to all or any of the voters justice- social, economic & political.

Under Art. 16(1), there shall be parity of opportunity for every single member of the electorate in subject with reference to service or engagement to several workplace within the State. Articles 16 clause (4) and 16(4A) authorizing the State to make reservations for SCs and STs part of the section entitled "Equal opportunities in public jobs matters." The constitutional preamble also enshrines the right to equality. Many considered the reservation to be contrary to Article 16 (Right to Equality). But one should recognize that the absence of equal opportunities for the Backward Classes by reason of birth due to historical inequality means quotas for them.

In *Balaji's* case<sup>8</sup>, the Court decided to place a substantive cap on the breadth of the privilege, not on the "narrower ground of reservation," rather wider policy grounds. The Court spoke about balancing the importance on deprived segment of the general public by the significance of the entire group. The Court pronounced that a solution had to be formulated which would determine a fair stability connecting the various factors concerned. The Court concluded by observing:

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<sup>7</sup> (1992) 3 SCR 33.

<sup>8</sup> *Balaji v. State of Mysore*, 1963 AIR 649.

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“Usually, and generally speaking, a special clause should be less than 50%; how much less than 50% would depend on the prevailing circumstances of each case.”

Immediately afterwards came the *Devadasan*,<sup>9</sup> a case before the SC that allowed the Court to adjudicate the validity of the "take forward" statute. Based on the *Balaji* principle, the Supreme Court ruled that it would be illegal to reserve additional 50 per cent of post everywhere, as it itself violates Art. 16(1). The court observed that as Article 16(4) was an amendment to Article 16(1), article couldn't be viewed as nullifying or else removing the major amendment, as if not it would in result make the promise of fair opportunities in the subject of open jobs absolutely illusory and meaningless pursuant to Article 16(1).

*Indra Sawhney v Union of India*,<sup>10</sup> generally termed as the lawsuit of the Mandal Board, is an important Supreme Court decision on the matter related to posts being reserved for deprived section. In 1979 the Mandal Commission was constituted by the Govt. of India to scrutinize the circumstances of communally & academically backward classes in conditions of Article 340 of the bill. The key recommendations made by the authority was that, apart from the Scs and STs, 27% of government jobs should be reserved for OBCs, who make up almost 52% of the population, consequently overall quota intended for both, SCs, STs and OBCs amount to 50%. The Court observed:

The constitutional scheme and sense of Article 16(4) leads one to take the view that the wider description of reservations encompasses both supplementary and ancillary provisions as well as lesser types of special provisions such as

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<sup>9</sup> *T Devadasan v. UOI*, AIR 1964 SC 179: (1964) 4 SCR 680.

<sup>10</sup> AIR 1993 SC 477.

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exemption concessions and relaxations, which are in no way compatible with the need to preserve administrative performance-the alert of Article 335.

The age- old custom was done away with all its forms by article 17 “untouchability”. In accordance with the constitution, punishment of any impairment resulting from untouchability has been considered as an offence. Fundamental Rights must be interpreting along by means of the section on Directive Principles of State Policy along with Elementary Duties laid down in Article 51 A. The rights shall be preserved in compliance with the changing socio- economic conditions. Article 19 protects the constitutional freedoms of the country's people.

Article 19(1) consists of 7 subordinate clauses which promise the voters 7 completely diverse forms of liberty & acknowledge it as their basic constitutional rights. Art. 19 furnish a really reasonable and balanced root for regulating the claims of person constitutional rights to free will as well as the claims of civic sense. Art. 24, specifically, prohibits manager for using a young person below the age of fourteen yrs. in any works or pit or in the extra risky service. Article 31 constructs a particular proviso in relevance to the basic right to assets & allocate with the problematical question based on obligatory attainment of assets.

Article 38 requires that the State ought to create a shot to push the wellbeing of the folks by protecting along with safeguarding, the constitutional order in which social, financial and opinionated impartiality persuades all nationwide living institution at the same time as efficiently as feasible. Art. 39(a) provides that the State shall secure the procedure of the legal system, supports fair dealing, based on civil rights, and shall, especially offer open legalized help, by

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appropriate legislations or method, or in the extra means, to make sure that chances required for achieving integrity are not deprived of any national on account of monetary or any alternative factors.

Read with Article 39A, Social Justice would come with "legal justice", which implies that the scheme of management of righteousness should offer an economical, efficient & valuable tool for realization of integrity by every section of the individuals no matter what their public or monetary condition or their monetary funds are.<sup>11</sup> Article 14-18 has got to be understood within the lightweight of communal integrity guaranteed by Articles 38, 39, 39A, 41 & 46 of Part IV of the bill.<sup>12</sup>

In *State of Bihar vs. Kameshwar Singh*,<sup>13</sup> Court held that the aim that needs to be put before us in Art. 38 is to evolve a State that should perpetually attempt to market the welfare of the individuals by safeguarding also creating as efficiently as it could also be, a communal, economic and political integrity and shall notify the entire establishments of the nationwide living.

Art. 41 acknowledges each national's right to job, learning & community help within the areas related to joblessness, old age, illness & impairment in addition to alternative cases of unmerited need. Article 42 highlights the significance of achieving simply humanitarian environment of labor and parenthood aid. Art. 43 embrace the concept of living wages before the working population and Art. 46 highlight the significance of the endorsement related to educational & financial benefit of SCs, STs as well as alternative weaker sector.

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<sup>11</sup> *Babu Ram L. v. Raghunathji Maharaj*, (1976) 3 SCC 492.

<sup>12</sup> AIR 1993 SC 2606.

<sup>13</sup> AIR 1952 Pat 417.

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## CHALLENGES IN SOCIAL JUSTICE

The extensive caste prejudice and ongoing unfairness in opposition to the inferior class are a menace to societal constancy as well as harmony. The societal & academic sub normality of a massive part of the residents reduces its contribution within the method of communal along with monetary growth also not to talk about individual progress. Therefore, the decrease in biased societal performance is a crucial ingredient of the association meant for common integrity. Female section of the society suffers from past, social and economic disadvantages. A freethinking society should be there to meet the needs of sexual category fairness sincerely.

The commencement of communal impartiality conjointly includes rigid assurance to safeguard the person's constitutional rights & civil emancipation. Abnormalities as well as issues of alternative teams just like the child manual labor, tribals along with individuals suffering from ecological contamination conjointly kind the outline of social righteousness.

**Dalits:** For centuries dalits were oppressed. No culture or nation will make the requisite changes when depriving the dignity and respect of such a large number of people. Dr. Ambedkar was in favour of property nationalization nevertheless Dalits ignored their economic schedule. Dalits have made some advancement in government employment and political affairs due to reservation but they have yet to begin in other fields such as business, economy, and education. Dr. Ambedkar's proposal for creating casteless society all the way through Buddhism was introduced in 2001 as soon as Buddhism was accepted by the lack of dalits.

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**Tribals:** Tribals have at large runaway from class unfairness however they are the most horrible sufferers of financial situation. The growing speed of industrial enterprise along with social process has left no option but to incorporate them into the most stream of the state. Even though they are made available to reservation policy, however the majority lower social group is barely profited.

**Other Backward Castes:** Their inhabitants are over the rest in society however they're a mainly alienated mass. The suggestions of the Commission were enforced owing to Dalit trash however separated & uninformed lower class, still not be able to exercise the advantages. So the adventure story of most backward social group is admittedly unacceptable. A contemporary look is required to make sure of the advantages to them of stipulation & alternative protection.

**Laborers:** Whatever development thousands of employees have done in the past, now few laborers are doing it so that businessman's profit goes up. We must not be against scientific & computerization, rather we should support certain businesses & facilities that take in more people. These days businesses are contractually hiring employees and that has spawned further abuse. Supreme Court recently ruled a judgment curtailing the independence and struggle of workers plus laborer. The high court favors disinvestment & privatization that precipitates additional abuse to the workers. We believe that industrialists and businessmen should curb abuse.

### **SOLUTION FOR SOCIAL JUSTICE**

The resolution to public inequality lies only within us. We ought to be conscious to terms used by disadvantaged, marginalized, societal integrity to

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weaken expectations, flout norms, and bring institution to work. Given the well-intentioned dedication to social justice all the way through a policy of equalization or defense against inequity, the Government hard work also generated a certain friction in society. Even these practices which have little to do with social justice are done in the name of social justice. Jobs and incentives for self-employment need to be promoted in areas such as cultivation, forestry, in addition to infrastructural actions, etc. Through methods involving a legal combination of equipment and manual labor, the immense economic potential of the nation can be utilized to support the less fortunate parts of the population. Without decentralization of executive & biased elements, the social objectives of integrity cannot be executed. Letting public determine what their expansion wants be, will not only create communal and legislative consciousness between them, furthermore installs a sense of pride and establish effective headship on the narrow & national level.

### CONCLUSION

Despite tremendous progress in nearly every sector, especially in economics, science and technology, infrastructure growth, the difference among the deprived & wealthy are growing day by day. In India, courts have played a big part in making social justice a success. It can be reiterated that our constitution focuses purely on the community as well as financial integrity for the whole masses of the country. The term social justice coined by our constitution maker has a broad perspective and it emphasizes justice for deprived and weaker section of the society. There is a strong correlation and coordination between executive and judicial organ of the state. Whenever any matter is needed to be readdressed concerning social justice, proper legislation is passed by legislative organs of our country that is why a total 104 amendments have been done in

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our constitution after its inception. The need for hour is to make sure that fair and sustainable policy execution makes social justice an important tool for social change.



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