

Law and Justice in India with Special Reference to Political Economy: A Theoretical View

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Abstract

Law and Justice are of supreme importance in any society, because, whatever the level of economic development, if there is no justice, fairness and rule of law, there will be dissatisfaction, oppression and anarchy. In India, the Constitution guarantees protection of life, property and personal liberty to the people and provides safeguards against deprivation thereof by any individual, body or state. Economic justice means that the individual is provided with the bare necessities of food, clothes and shelter, the abolition of the unequal distribution of wealth and the provision of equal and appropriate opportunities for the earning of his livelihood. The provision of economic justice is essential for the attainment of social justice and the success of democracy. The chapters of Fundamental Rights and Directive Principles of State Policy make the following provisions for the attainment of economic justice in the country- Right to Property is made Legal Right, Adequate Means of Livelihood, to Check the Concentration of Wealth and Means of Production, Equal Pay for Equal Work, Protection against Economic Exploitation, Social Security, Participation of Workers in the Management of Industries.

Keywords: Fundamental Rights, Directive Principles of State Policy, Legal Right, Livelihood

Introduction

Law and justice are of supreme importance in any society, because, whatever the level of economic development, if there is no justice, fairness and rule of law, there will be dissatisfaction, oppression and anarchy. In India, the Constitution guarantees protection of life, property and personal liberty to the people and provides safeguards against deprivation thereof by any individual, body or state.

The adoption of the Constitution on 26 January 1950 did not disturb the existing structure of courts for dispensation of justice. The uniformity of judicial structure was preserved by placing criminal law and procedure, succession, will, contracts, registration of documents, etc. in the Concurrent List.

Indian Law and Justice

The Indian law and justice is based on the firm foundation of several sources like the Constitution, statutes, case law and customary law. Besides, there are rules, regulations and bye-laws. The judicial decisions of superior courts like Supreme Court and High Courts are also important sources of law. Local customs and conventions which are not against the principles of morality are duly taken into account by courts while administering justice.

Each state is divided into judicial districts headed by a district and session judge who is the principal civil authority of original jurisdiction. He can try all offences including those punishable with death or life imprisonment. Below him, there are courts of civil jurisdiction known in different states as magistrates, sub-judges and civil judges. The criminal judiciary is comprised of chief judicial magistrate and judicial magistrate of first and second class.

The Supreme Court of India consists of 26 judges including the Chief Justice of India. The judges hold office until they attain the age of 65 years. The judicial administration of each State or a group of states is headed by a respective High Court.

Each High Court comprises a Chief Justice and such other judges as the President of India may, from time to time appoint. There is uniformity in the structure and functions of subordinate courts throughout India. The designations of respective courts connote their functions. They deal with the disputes of civil and criminal nature as per powers conferred upon them. These courts derive principally from the two important codes prescribing procedures, i.e. Code of Civil Procedure, 1908, and Code of Criminal Procedure, 1973.

It is often said that justice delayed is justice denied. In India, the settlement of cases takes a long time. Many cases are not decided even after decades. Sometimes the plaintiff or the respondent dies before the cases are decided defeating the very purpose for which the case was filed.

There are several reasons for such a delayed justice in our country. The number of judges is woefully short of the requirement as a result of which the number of cases go on piling in various courts. Many vacancies lie unfulfilled because of bureaucracy and bottlenecks. The judges take their own time in deciding each case because there is no time pressure on them. Lack of concrete proof on evidence, changes of stances by witnesses, corruption, etc. are some other reasons that cause delay in meting out justice. There is a huge pendency even in superior courts, viz. Supreme Court and the High Courts.

The Eleventh Finance Commission recommended the setting up of Fast Track Courts. These courts take up session cases pending for two years or more, and the cases of under trials in jails. The Commission had given a grant of over Rs700 crores for setting up nearly two thousand Fast Track Courts. Nearly four lakhs pending cases were transferred to these courts.

Getting justice is not only time consuming but also an expensive affair. The court fee, the advocate's charges and frequent visits to the courts involve heavy expenditure. There is also inherent exploitation in the system. The advocates deliberately make the cases linger on for years to ensure their fee for longer durations.

In a country like India where a large section of the population lives in extreme poverty, justice for all is still a dream. The literacy rate being low, the litigants are exploited in various ways.

However, efforts are under way to bring law and justice within the access of poor people. The Legal Services Authorities Act, 1987, as amended in 1994 and 2002, aims at establishing a nation-wide network for providing free and competent legal aid to the poor and weaker sections as per the provisions of Article 39A of the Constitution. In order to implement and monitor legal aid programmes in the country, the National Legal Services Authority (NLSA) has been set up. There are also Supreme Court Legal Services Committee, and High Court Legal Services Committees in each High Court to provide free legal aid to the eligible persons.

Other steps taken by the government are: setting up of vibrant legal aids programmes, promotion of legal literacy, establishing the legal aid clinics in universities and law colleges, training the Para-legal personnel, holding the legal aid camps and look adalats, etc.

An amazing number of cases-running into several lakhs have been settled in look adalats. Motor vehicle accident claim cases involving compensation with several thousand crore rupees have been settled. Lakhs of people have benefited from these local adalats which have been given the status of civil courts.

The Family Courts Act, 1984 aims at the speedy settlement of disputes relating to marriages and family affairs, etc. These courts are set up in a city or town with a population of over 10 lakhs and at such other places as the State Government deems necessary.

The Parliamentary Committee on Empowerment of Women has recommended the setting up of one Family Court in each district of the country. India is a country inhabited by people of different religious and faiths governed by different sets of personal laws in matters relating to marriage, divorce, succession, adoption, maintenance, etc. There are separate and elaborate laws on each of these issues whereby people get readdressed and settlement of their disputes.

There are several law enforcement agencies like the Police, Central Bureau of Investigation, Indo-Tibetan Border Police, Border Security Force, National Security Guards, Assam Rifles, Central Reserve Police Force, Rapid Action Force, etc. They play an important role in maintaining law and order in the country, checking infiltration and cross border crimes, investigating crimes and establishing peace and security. With such elaborate structure of laws and enforcing institutions, law and justice in India is safe and secure.

The Economic Justice:

Economic justice means that the individual is provided with the bare necessities of food, clothes and shelter, the abolition of the unequal distribution of wealth and the provision of equal and appropriate opportunities for the earning of his livelihood. The provision of economic justice is essential for the attainment of social justice and the success of democracy. The chapters of Fundamental Rights and Directive Principles of State Policy make the following provisions for the attainment of economic justice in the country.

They are:

(a) Right to Property is made Legal Right:

According to the 44th Constitutional Amendment, the Right to Property has been made merely a legal right. For the fulfilment of this objective Article 300 (A) has been inserted into the Constitution. The aim of this amendment was to remove the obstacles in the path of the establishment of economic justice.

(b) Adequate Means of Livelihood:

In order to give economic justice, it is essential to fulfil the basic needs of the public. Article 39 (a) of the Directive Principles says that the State shall direct its economic policy in such a way that all citizens have the right to an adequate means of livelihood. According to Article 41, the State shall within the limits of its economic capacity and development, make provision for work to all citizens.

(c) To Check the Concentration of Wealth and Means of Production:

For the establishment of economic justice, it is essential to check the concentration of wealth and the means of production in fewer hands. The Indian Constitution makes a provision for the acquisition of property of the people by the State for the furtherance of the public interest. Article 39 (b) provides that the ownership and control over the material resources would be conducted in such a manner as to do public welfare. According to Article 39 (c), the economic organisation in the country would be controlled in such a manner that wealth is not concentrated in the hands of fewer people and the means of production are not used against the interests of Indian people.

(d) Equal Pay for Equal Work:

Economic justice requires that men and women should get equal pay for equal work. Article 39 (d) of the Indian Constitution provides that the State shall endeavour to secure equal pay for men and women for equal work.

(e) Protection against Economic Exploitation:

For the establishment of economic justice, it is essential that there is no economic exploitation of one class by another class. Under Article 23 of the Fundamental Rights, traffic of human beings, beggar and bonded labour are prohibited. Besides, in Article 39 (e) of the Directive Principles of State Policy, it has been provided that the State shall see that health

and strength of workers, men and women and the tender age of children are not abused. The workers will not be forced by economic necessity to enter vocations unsuited to their age or strength.

(f) Social Security:

Economic justice demands that arrangements should be made to give economic assistance to those who are unemployed, old age and sick. Article 41 of the Directive Principles of State Policy provides that the State working within its resources and the limits of its progress and development, shall made available public assistance in cases of unemployment, old age and sickness.

(g) Participation of Workers in the Management of Industries:

Workers participation in the management of industries ensures economic justice. Article 43A of the Indian Constitution provides that the State shall take steps by suitable legislation or in any other way to secure participation of workers in the management of industries.

Conclusion:

In this paper the following points were highlighted Fundamental Rights and Directive Principles of State Policy make the following provisions for the attainment of economic justice in the country- Right to Property is made Legal Right, Adequate Means of Livelihood, to Check the Concentration of Wealth and Means of Production, Equal Pay for Equal Work, Protection against Economic Exploitation, Social Security, Participation of Workers in the Management of Industries.

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