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## LAW AS AN INSTRUMENT OF SOCIAL CHANGE: A CONSTITUTIONAL VISION UNDER THE INDIAN CONSTITUTION

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**ABSTRACT-** Law is a dynamic instrument created by society, aiming to eliminate social tensions and conflicts and establish harmony in human relationships. Social changes are brought about for the development of society. Social Change is the obvious requirement of the time and its abstract idea evinces change of characteristics of a group of people. The adaptation and enforcement of the Constitution of India was the path breaking event in the Indian socio-political structure. The principles of law governing these changes can be easily formulated; otherwise, it would be very difficult to overcome customs and religious beliefs. This paper aims to define the terms "law<sup>2</sup>" and "social change<sup>3</sup>," studying the social aspects of societies and their legal methods of resolution. The law of any civilized country is not static but constantly changes to reflect the evolving needs of society. In India, the path of social changes is guided by the Preamble, Fundamental Rights, Directive Principles, and Article 368<sup>4</sup> of the Constitution. In this paper, our objective is to demonstrate that certain principles and instruments of social change have been developed in India for the study of law and social changes. These changes include the abolition of Sati, the prohibition of child marriage, the Right to Education Act, free education, the Right to Information, marriage registration, recognition of live-in relationships, juvenile justice, protection of LGBTQ<sup>5</sup> rights, and protection of Muslim women's rights in marriage.

**KEYWORDS:** Instrument, social change, preamble, Rights, Society, custom and usages

**INTRODUCTION-** Law has always played a decisive role in shaping, regulating, and transforming society. In every civilization, legal norms have reflected prevailing social values while simultaneously acting as instruments to reform and restructure social relations. In a developing and pluralistic society like India, marked by deep-rooted inequalities of caste, class,

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<sup>2</sup> A system of rules that regulate the conduct of a community

<sup>3</sup> The way human interactions and relationships transform cultural and social institutions over time

<sup>4</sup> Power of Parliament to amend the Constitution and procedure there for

<sup>5</sup> Umbrella term for Lesbian, Gay, Bisexual, Transgender, and Queer/Questioning

gender, religion, and region, law assumes a transformative role that goes beyond mere regulation of conduct. It becomes a powerful instrument of social change aimed at achieving justice, equality, and human dignity. The Indian Constitution represents a conscious break from the oppressive social order inherited from colonial rule and traditional hierarchies. It is not merely a legal document but a social charter that embodies the aspirations of a newly independent nation committed to democratic governance and social justice. The framers of the Constitution envisioned law as a dynamic tool capable of dismantling structural inequalities and enabling social transformation. This vision is reflected in the Preamble<sup>6</sup>, which promises justice—social, economic, and political; liberty of thought, expression, belief, faith, and worship; equality of status and opportunity; and fraternity assuring the dignity of the individual.

Judicial interpretation has further strengthened the role of law as an agent of social change. Through purposive and progressive interpretations, the Supreme Court of India has expanded the scope of fundamental rights to include socio-economic entitlements, environmental protection, gender justice, and the rights of vulnerable groups. The development of public interest litigation has democratized access to justice and enabled courts to address systemic injustices affecting large sections of society. Concepts such as constitutional morality, substantive equality, and transformative constitutionalism have emerged as guiding principles in judicial decision-making. However, the effectiveness of law as an instrument of social change depends not only on constitutional ideals but also on their implementation and social acceptance. Persistent gaps between constitutional promises and social realities, resistance to reform, and institutional limitations pose significant challenges to achieving meaningful transformation. This necessitates a critical examination of how far the constitutional vision of social change has been realized and the extent to which law has succeeded in altering entrenched social structures.

**CONSTITUTIONAL VISION OF SOCIAL CHANGE IN INDIA-** The Indian Constitution is not merely a legal document establishing the framework of governance; it is a transformative charter aimed at reconstructing a deeply hierarchical and unequal society. Framed in the aftermath of colonial exploitation and entrenched social injustices such as caste discrimination,

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<sup>6</sup> It declares India to be a Sovereign, Socialist, Secular, Democratic, Republic committed to Justice, Equality and Liberty for the people

untouchability, gender inequality, and economic deprivation, the Constitution consciously adopts law as a means of social engineering and change. The constitutional vision of social change seeks to replace inherited social hierarchies with values of justice, equality, dignity, and fraternity. The Preamble embodies the philosophical foundation of the Constitution's social vision. The commitment to Justice—social, economic, and political reflects an intention to dismantle structural inequalities. Social justice aims at correcting historical disadvantages suffered by marginalized communities. The ideals of Liberty, Equality, and Fraternity collectively promote individual dignity and social cohesion.

Dr. B.R. Ambedkar viewed fraternity as essential to the success of democracy, emphasizing that without social unity, legal equality would remain illusory. Thus, the Preamble functions as a normative guide directing the State to use law as a tool for social transformation.<sup>7</sup>

**JUDICIAL ACTIVISM AND SOCIAL CHANGE-** The operational aspect of the Indian Constitution, specifically the role of Judiciary in the process of social change is always vital. The Constitution being a living document must be interpreted in the light of the hopes and aspirations of the people. This interpretative function is discharged by the judiciary through direct as well as indirect judicial review. Thus, the efficacy of the legal system and the wisdom of the judiciary are expected to fulfill the primacies of social change. In view of the changing realities of the socio-economic situation and primacy of goals of popular welfare and justice, amendments of the Constitution and the judiciary's corroboration of the same have to be viewed in the long range perspective of social change. After independence, there are occasions of conflicts between the legislatures and the judiciary. However, after Kesavananda Bharti Case<sup>8</sup> the relation between judiciary and legislatures is harmonious in nature and thereby accelerating the pace of social change. In fact, though the function of amending is entrusted upon the Parliament and the Parliament formally and consciously discharges this duty, yet no one can deny that judiciary also while interpreting the provisions of the Constitution consciously contributes to the change or reform of it by giving it a progressive interpretation to meet the changing demand of time.

<sup>7</sup> Fostering Fraternity: Dr. B.R. Ambedkar's Ideal and Its Relevance in our Times by Moumita Barman

<sup>8</sup> AIR 1973 SC 1461

Thus, through judicial review, the Judiciary performs the role of expounding the Constitution and also exercises the power of declaring any law or executive action as unconstitutional and hence void. This power of judicial review makes the judiciary the final arbiter of the Constitution and gives the Judiciary an ample opportunity to contribute to the development of the social structure and norms by putting the gloss on the bare text of the Constitution. Further, in some cases, Judiciary also provides guidelines for the application of laws and to curb social evils. Therefore, Justice P. N. Bhagwati rightly quoted that “It is the judge who infuses lifeblood into the dry skeleton provided by the legislature and creates a living organism appropriate and adequate to meet the needs of the society”<sup>9</sup>.

One of the most significant tools of judicial activism is Public Interest Litigation (PIL). PIL has democratized access to justice by allowing courts to take cognizance of issues affecting disadvantaged groups—such as bonded labourers, prisoners, women, children, SC/ST communities, and environmental victims—often on the basis of letters or reports. Landmark cases on environmental protection, custodial justice, and sexual harassment at the workplace (Vishaka Guidelines)<sup>10</sup>, and prison reforms illustrate how judicial intervention has driven social reform.

Judicial activism has also contributed to social justice and equality, particularly in addressing caste-based discrimination, gender inequality, and human rights violations. Courts have reinforced constitutional mandates under Articles 14, 15, 17, and 46, emphasizing substantive equality rather than formal equality.<sup>11</sup> However, judicial activism is not without criticism. Concerns are often raised about judicial overreach, separation of powers, and the judiciary encroaching upon legislative or executive domains. Critics argue that excessive activism may undermine democratic accountability and institutional balance. Despite these concerns, judicial activism remains a vital force for social change in a constitutional democracy like India—especially in contexts where vulnerable groups lack political voice. When exercised with restraint and constitutional fidelity, it acts as a catalyst for realizing the transformative vision of the Constitution.

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<sup>9</sup> Judicial Activism and Women Empowerment In India by Mohanraj TP

<sup>10</sup> Vishaka v/s State of Rajasthan AIR 1997 SC 3011

<sup>11</sup> <https://www.lawentrance.com/blogs/judicial-activism-vs-judicial-overreach/#:~:text=Judicial%20activism%20refers%20to%20the%20proactive%20role,executive%20actions%20fail%20to%20uphold%20constitutional%20principles.>

**LAW AND SOCIAL REFORM: LEGISLATIVE INTERVENTIONS-** Law has long been a powerful instrument of social reform, and legislative interventions play a central role in shaping social transformation by addressing inequalities, correcting historical injustices, and responding to changing social realities. Through deliberate enactment of statutes and constitutional amendments, the legislature seeks to restructure social relations and promote justice, equality, and human dignity. In India, legislative interventions have been crucial in dismantling oppressive social practices and advancing constitutional values. Early post-Independence reforms such as the Hindu Code Bills<sup>12</sup> transformed personal laws by recognizing women's rights in matters of marriage, inheritance, and adoption. Similarly, laws abolishing untouchability and prohibiting bonded labour, child labour, and manual scavenging aimed at eradicating entrenched forms of social exploitation. Legislation has also played a vital role in promoting social justice and affirmative action. Constitutional provisions and enabling statutes concerning reservations in education, employment, and political representation for Scheduled Castes, Scheduled Tribes, and Other Backward Classes reflect the commitment to substantive equality. Protective laws such as the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989<sup>13</sup> seek not only to punish discrimination but also to deter systemic violence and exclusion. In the sphere of gender justice, legislative measures like the Dowry Prohibition Act, Protection of Women from Domestic Violence Act, 2005<sup>14</sup>, Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013<sup>15</sup>, and recent reforms in criminal law have contributed significantly to redefining women's rights and safety. Similarly, laws recognizing the rights of children, senior citizens, persons with disabilities, and transgender persons indicate an expanding legislative concern for vulnerable groups. Legislative interventions also respond to emerging social challenges, such as environmental degradation, technological change, and economic inequality. Environmental protection laws, labour welfare statutes, and social security legislation reflect the dynamic role of law in managing social change.

<sup>12</sup> The Hindu Code Bills were a set of four major Indian laws passed in the 1950s (1955-1958)

<sup>13</sup> To prevent atrocities (offences like violence, discrimination, and humiliation) against members of Scheduled Castes (SCs) and Scheduled Tribes (STs)

<sup>14</sup> To protect women from domestic violence

<sup>15</sup> For effective implementation of Vishaka & Ors v/s State Of Rajasthan & Ors AIR 1997 S C 3011

However, the success of legislative reform depends not merely on enactment but on effective implementation, social acceptance, and judicial support. In many cases, courts have complemented legislative intent through progressive interpretation, ensuring that reformist laws achieve their transformative objectives.

**CONTEMPORARY CHALLENGES TO LAW AS AN INSTRUMENT OF SOCIAL CHANGE** - Law faces significant contemporary challenges in driving social change, particularly in India, where judicial delays, enforcement gaps, and societal resistance undermine its transformative potential. These issues persist amid rapid socio-economic shifts, new criminal laws, and ongoing reforms. Despite legislative efforts, structural barriers often prevent law from achieving equitable outcomes.

**Judicial Backlog**- India's courts grapple with over 52 million pending cases as of 2025, delaying justice and eroding public trust in legal reforms. This backlog disproportionately affects marginalized groups, prolonging pre-trial detentions and weakening deterrence against social ills like caste discrimination. Reforms like the Bharatiya Nyaya Sanhita aim for trials within three years, but judge shortages and infrastructure deficits hinder progress.<sup>16</sup>

**Enforcement Gaps**- Weak implementation renders progressive laws ineffective, as seen in persistent caste atrocities despite protective statutes. Corruption, inadequate resources, and resistance from entrenched customs allow economic disparities and gender inequalities to persist. New 2023-2024 criminal laws expand police powers but raise concerns over fair trials and civil liberties.<sup>17</sup>

**Societal Resistance**- Deep-rooted norms, such as religious fundamentalism and intellectual inertia, resist legal mandates on issues like marital rape or Uniform Civil Code. Political factors, including elite disinterest in redistribution and agitational politics like strikes, further obstruct change. Social movements like #MeToo<sup>18</sup> push reforms, yet gaps between law and ground realities remain wide.

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<sup>16</sup> <https://www.drishtias.com/daily-updates/daily-news-analysis/indias-judicial-pendency-crisis>

<sup>17</sup> The Bharatiya Nyaya Sanhita(BNS), Bharatiya Nagarik Suraksha Sanhita(BNSS), and Bharatiya Sakshya Adhinyam(BSA) laws in India.

<sup>18</sup> The #MeToo movement is a global social movement against sexual harassment and assault, catalyzed in 2017 by actress Alyssa Milano's call for survivors to share their experiences using.

**SUGGESTIONS AND CONCLUSION:** The Indian Constitution envisions law as a transformative force for social change through its Preamble, Fundamental Rights (Part III), and Directive Principles of State Policy (Part IV), aiming to eradicate inequalities and foster justice. This vision balances individual liberties with state-led reforms, as seen in judicial interpretations expanding rights like education and equality. Despite progress, realizing this potential requires targeted enhancements. The Preamble commits to social, economic, and political justice, while Articles 14-18 ensure equality and abolish untouchability. Directive Principles under Articles 38-39 mandate minimizing inequalities and promoting welfare, guiding laws like land reforms and minimum wages. Judicial activism, via Public Interest Litigation (PIL), enforces these, as in *Mohini Jain v. State of Karnataka*<sup>19</sup>, linking education to Article 21.

Landmark rulings like *Navtej Singh Johar v/s. Union of India*<sup>20</sup> decriminalized homosexuality, upholding dignity under Article 21. The 86th Amendment introduced Article 21A for free education up to age 14, transforming access for marginalized children. Abolition of Sati (1829, reinforced by 1987 Act) and bonded labor bans exemplify constitutional mandates driving societal shifts. Strengthen enforcement by increasing judicial infrastructure to cut backlogs, enabling timely social justice delivery. Amend laws for Uniform Civil Code (Article 44) to harmonize personal laws, reducing gender disparities. Promote legal literacy campaigns tying DPSPs to grassroots awareness, ensuring societal buy-in for reforms

Politics without criminal intent, simplicity in bureaucratic procedures, securing rights for the vulnerable section of society and exercise of free judicial discretionary power are the demands which till required to be addressed. Apart from these, the Constitution of India always concerned about the changes brought by technology, science, medical development and modern education and with the help of organs of the State always trying to enforce social changes for the betterment of Indian civilization and thus profoundly acts as an instrument of social change.

<sup>19</sup> Miss Mohini Jain v/s State Of Karnataka And Ors AIR 1992 SC 1858

<sup>20</sup> *Navtej Singh Johar v/s Union of India Ministry of Law and others AIR 2018 SC 4321*