

CONSTITUTIONAL PROVISIONS FOR SOCIAL JUSTICE

Our Constitution guarantees justice and equality of opportunity to all its citizens. It also recognizes that equal opportunity implies the competition between equals, and not 'unequals'.

Taking cognizance of the inequality in our social structure, the makers of the Constitution argued that weaker sections have to be dealt with on a preferential footing by the state. A special responsibility was, thus, placed upon the state to provide protection to the weaker sections of society. Accordingly, the Constitution of India provided for protective discrimination under various articles to accelerate the process of building an egalitarian social order.

In the Preamble to the Constitution of India, first, third and fourth goals respectively mentioned the security of all its citizens:

JUSTICE, social, economic and political;

EQUALITY of status and of opportunity; and to promote among them all

FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation.

FUNDAMENTAL RIGHTS

Right to Equality

Article 14. Equality before the law.

Article 15. Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth

Nothing in this article shall prevent the State from imposing compulsory service for public purposes, and in imposing such service the State shall not make any discrimination on grounds only of religion, race, caste or class or any of them.

Article 16. Equality of opportunity in matters of public employment.

Article 17. Abolition of Untouchability.

Article 24. Prohibition of employment of children in factories, etc.

No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment.

DIRECTIVE PRINCIPLES OF STATE POLICY

Article 38. State to secure a social order for the promotion of the welfare of the people –

- (1) The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life.
- (2) The State shall, in particular, strive to minimize the inequalities in income, and endeavour to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations.

Article 39. Certain principles of policy to be followed by the State:

The State shall, in particular, direct its policy towards securing:

- (a) that the citizens, men, and women equally, have the right to an adequate means of livelihood;
- (b) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good;

**Leaving no stone
unturned for justice -
strongest amendments
to SC/ST Act**

54,733 loans
sanctioned by
the banks to SCs,
STs and Women
borrowers

- Provides for the establishment of exclusive special courts for the speedy trial of offences of atrocities against the SCs & STs
- To insert a new chapter relating to "Rights of Victims and Witnesses"
- To impose certain duties and responsibilities upon the state for making necessary arrangement for protection of victims, their defendants and witnesses

- (c) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;
- (d) that there is equal pay for equal work for both men and women;
- (e) that the health and strength of workers, men, and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength;
- (f) that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

Article 39A. Equal justice and free legal aid:

The State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.

PROVISIONS RELATING TO PERSONS WITH DISABILITY AND THE OLD

Article 41. Right to work, to education and to public assistance in certain cases –

The State shall, within the limits of its economic capacity and development, Make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness, and disablement, and in other cases of undeserved want

PROVISIONS RELATING TO SCHEDULED CASTES (SCs), SCHEDULED TRIBES(STs) AND OTHER WEAKER SECTIONS

Article 46. Promotion of educational and economic interests of Scheduled Castes, Scheduled Tribes and other weaker sections:

The State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation. Who comes under the ambit of SCs and STs. These are well defined under the article 366 (24) and 341 as under:

Article 366(24)

(24) Scheduled Caste means such castes, races or tribes or parts of or groups within such castes, races or tribes as are deemed under Article 341 to be Scheduled Castes for the purposes of this Constitution;

Article 341: Scheduled Castes

(1) The President may with respect to any State or Union territory, and where it is a State after consultation with the Governor thereof, by public notification, specify the castes, races or tribes or parts of or groups within castes, races or tribes which shall for the purposes of this Constitution be deemed to be Scheduled Castes in relation to that State or Union territory, as the case may be (2) Parliament may by law include in or exclude from the list of Scheduled Castes specified in a notification issued under clause (1) any caste, race or tribe or part of or group within any caste, race or tribe, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification

SAFEGUARDS FOR SCs AND STs:

SOCIAL SAFEGUARDS:

1. **Article 17.** It relates to the abolition of untouchability being practiced in the society. The Parliament also enacted the Protection of Civil Rights Act, 1955 and the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 to tackle the problem of untouchability being practiced against Scheduled Castes.
2. **Article 23.** This prohibits human trafficking and beggar and other similar forms of forced labour and provides that any contravention of this provision shall be a punishable offence. Although this article is not specifically articulated for the SCs and STs because the majority of bonded labour is from SCs so it holds significance for them.
3. **Article 25 (2)(b).** It provides that Hindu religious institutions of a public character shall be opened to all classes and sections of Hindu.

ECONOMIC SAFEGUARDS:

Article 46 : Economic Safeguards are as in article 46 above.

EDUCATIONAL AND CULTURAL SAFEGUARDS:

Article 15(4) As mentioned above also under heading **Fundamental Rights** and subheading- Justice for equality, It empowers the State to make special provisions for the advancement of any socially and educationally backward class of the citizens and for SCs. This article enabled the State to reserve seats for SCs in educational institutions.

Article 335 Allows relaxation in qualifying marks for admission in educational institutes or promotions for SCs/ STs.

POLITICAL SAFEGUARDS

Article 243D. Reservation of seats for the Scheduled Castes and the Scheduled Tribes in every Panchayat.

Article 243T. Reservation of seats for the Scheduled Castes and the Scheduled Tribes in every Municipality.

Article 330. Reservation of seats for the Scheduled Castes and the Scheduled Tribes in the House of the People.

Article 332 Reservation of seats for the Scheduled Castes and the Scheduled Tribes in the Legislative Assemblies of the States.

Article 334. Reservation of seats and the special representation to cease after sixty years.

SERVICE SAFEGUARDS

Article 16(4). This clause allows the state to reserve vacancies in public service for any backward classes of the state that are not adequately represented in the public services.

Article 16 (4A). This allows the state to implement reservation in the matter of promotion for SCs and STs.

Article 16(4B). This allows the state to consider unfilled vacancies reserved for backward classes as a separate class of vacancies not subject to a limit of 50 per cent reservation.

OTHER SAFEGUARDS

Article 164. Appoint special minister for tribal welfare in the states of Madhya Pradesh, Bihar, and Odisha.

Article 275. Allows special grant in aids to states for tribal welfare.

Article 338/338A/339. Establishes a National Commission of SCs and STs. Article 339 allows the central govt. to direct states to implement and execute plans for the betterment of SC/STs.

Article 340. Allows the President to appoint a commission to investigate the condition of socially and economically backward classes and table the report in Parliament.

Umbrella Schemes for Relief and Rehabilitation of Migrants and Repatriates

The Union Cabinet chaired by Prime Minister has given its approval for continuance of the 8 existing schemes of the Ministry of Home Affairs upto March 2020 for relief and rehabilitation of migrants and repatriates under the Umbrella scheme "Relief and Rehabilitation of Migrants and Repatriates". The financial implication for this purpose is Rs. 3183 crore for the period 2017-18 to 2019-20.

The schemes are as under:

- i. Central Assistance for one-time settlement of displaced families from Pak Occupied Jammu and Kashmir (PoJK) and Chhamb settled in the State of Jammu & Kashmir.
- ii. Rehabilitation Package and up-gradation of infrastructure of the Bangladeshi Enclaves and Cooch Behar District after transfer of enclaves between India and Bangladesh under Land Boundary Agreement.
- iii. Relief assistance to Sri Lankan refugees staying in camps in Tamil Nadu and Odisha.
- iv. Grant-in-Aid to Central Tibetan Relief Committee (CTRC) for five years for administrative and social welfare expenses of Tibetan settlements.
- v. Grant-in-Aid to Government of Tripura for maintenance of Brus lodged in relief camps of Tripura.
- vi. Rehabilitation of Bru/Reang families from Tripura to Mizoram.
- vii. Grant of enhanced relief of Rs. 5.00 lakh per deceased person, who died during 1984 Anti-Sikh Riots.
- viii. Central Scheme for Assistance to Civilian Victims/Family of Victims of Terrorist/Communal/LWE Violence and Cross Border Firing and Mine/IED blasts on Indian Territory'.

These schemes had been started by the government of India to enable the migrants and repatriates, who have suffered on account of displacement, to earn a reasonable income and to facilitate their inclusion in mainstream economic activities.