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Research Article

The Constitution of India as an Instrument of Social Transformation: Fundamental Rights, Directive Principles and the Judicial Pursuit of Social Justice

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Abstract

The Constitution of India was framed for a society fractured by caste hierarchy, gender subordination, religious division and mass poverty. Its framers therefore designed it not merely to distribute governmental power but to reorder social relations. This article examines how the Constitution performs that transformative function. It analyses the social vision of the Constituent Assembly, the egalitarian and horizontally applicable guarantees of Part III, the welfare mandate of the Directive Principles in Part IV, and the role of the Supreme Court in harmonising the two Parts and expanding Article 21 into a reservoir of socio-economic entitlements. It further considers gender justice, protective discrimination, disability rights, minority safeguards and universal adult franchise as concrete channels of social change, and draws on Kerala's experience of land reform and democratic decentralisation as a sub-national illustration of the Directive Principles at work. The article argues that the Indian Constitution is best understood as a transformative charter whose promise depends on three conditions: legislative implementation of the Directive Principles, principled and restrained judicial creativity, and a constitutional culture that promote fraternity. It concludes by identifying the persisting gap between constitutional text and social reality and suggesting measures to narrow it.

Keywords: Transformative constitutionalism, Social justice, Fundamental Rights, Directive Principles of State Policy, Article 21, Basic structure, Gender justice

I. Introduction

When the Constitution of India came into force on 26 January 1950, it inherited a society in which status was largely fixed by birth. Caste determined occupation and social worth,

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women were confined by personal laws and custom, and the overwhelming majority of the population lived without literacy, property or political voice. A constitution that merely organised the institutions of government would have left this order untouched. The framers chose a more ambitious course. Granville Austin's well-known assessment that the Indian Constitution is "first and foremost a social document" captures the purpose the Constituent Assembly set for itself.¹

More than seventy-five years after its adoption, the Constitution has outlasted the predictions of its early critics. It has survived war, Emergency, coalition instability and deep social conflict, and it remains the common reference point of Indian public life. Yet its durability as a framework of government does not by itself establish its success as a charter of social change. Whether the Constitution has altered the distribution of dignity, opportunity and power in Indian society is a distinct and more demanding question, and it is the question this article addresses.

The central research question is how, and how far, the Constitution operates as an instrument of social transformation. Three subsidiary questions follow. First, what social vision did the framers embed in the text? Second, how do the Fundamental Rights and the Directive Principles of State Policy divide and share the work of social change? Third, how has the judiciary shaped this division, particularly through the doctrine of basic structure and the expansive reading of Article 21? The working hypothesis is that the Constitution's transformative capacity lies less in any single provision than in the interaction of three institutions: justiciable rights, legislative implementation of the Directives, and creative but accountable adjudication.

The study is doctrinal and analytical. It relies on the constitutional text, the Constituent Assembly Debates, leading decisions of the Supreme Court of India and secondary literature on constitutional theory.² The discussion is organised as follows. Part II sets out the conceptual framework, including the interpretive role of the Preamble. Part III recovers the social vision of the Constituent Assembly. Parts IV and V analyse the Fundamental Rights and the Directive Principles respectively, with a sub-national illustration from Kerala. Part VI studies judicial harmonisation of the two Parts. Part VII examines specific channels of inclusion, namely gender justice, protective discrimination, disability rights, minority rights and adult franchise. Part VIII offers a critical appraisal, and Part IX concludes with suggestions.

The argument advanced is that the Constitution is a transformative charter in the sense developed by Karl Klare: a long-term project of changing a country's political and social institutions and power relations in an egalitarian direction through law.³ Its transformative potential, however, is not self-executing. It depends on legislation, adjudication and a civic culture committed to what the Preamble calls fraternity.

II. Conceptual Framework

A. The Constitution as Fundamental Law

The word "constitution" traces to the Latin *constituere*, to establish or set up. In its classical liberal sense, a constitution is the body of fundamental rules that creates the organs of the State, allocates power among them and defines their relationship with the governed. James

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Bryce described it as the frame of a political society organised through and by law.⁴ Thomas Paine went further, insisting that a constitution is "antecedent to a government" and that a government acting without one exercises power without right.⁵ On this account, the constitution is the act of the people, and government is its creature.

A second, older tradition treats a constitution as something more than a legal scaffold. Aristotle regarded the constitution of a city as its chosen way of life, reflecting the ends its citizens pursue together.⁶ The Indian Constitution draws on both traditions. It is a supreme law that limits power and is enforced by courts; it is also a statement of the kind of society the nation resolved to become.

B. Social Justice

Social justice, in the constitutional sense, signifies the removal of disabilities that prevent individuals from developing their capacities on equal terms. It demands that no person be denied the social conditions essential for a dignified life on account of caste, sex, religion, race or birth.⁷ Social justice is inseparable from economic justice, because formal equality before the law means little to a person who lacks food, shelter or education. Amartya Sen's account of development as the expansion of substantive freedoms, and of entitlements as the bundles of goods a person can command through lawful arrangements, offers a useful lens here.⁸ Constitutional social justice, on this view, is concerned with real capabilities rather than paper rights.

Two conceptions of equality are at stake. Formal equality requires that like cases be treated alike and that the law not single out individuals for disadvantage. Substantive equality asks whether the law, in its operation, reduces or entrenches existing disadvantage, and it may require differential treatment to achieve equal outcomes. The Indian Constitution embraces both, and much of its jurisprudence can be read as a negotiation between them.

C. Transformative Constitutionalism

Transformative constitutionalism describes a constitution that does not merely preserve an existing order but commits the State to changing it. The concept, developed principally in South African scholarship, has been adopted by Indian commentators and by the Supreme Court.⁹ In *Navtej Singh Johar v. Union of India*, the Court described the Constitution's purpose as transforming society from an unequal past towards a future founded on dignity and equality, and treated this purpose as a guide to interpretation.¹⁰ The idea has since informed decisions on gender equality and religious exclusion.¹¹ This article adopts transformative constitutionalism as its analytical framework, while remaining alert to the institutional limits of courts as agents of social change.

D. The Preamble as Interpretive Key

The Preamble declares the people's resolve to constitute India into a sovereign, socialist, secular, democratic republic and to secure to all citizens justice, liberty, equality and fraternity. In *In re Berubari Union*, the Supreme Court described it as a key to the minds of the framers but held that it was not part of the Constitution.¹² That view was rejected in *Kesavananda Bharati v. State of Kerala*, where a majority held that the Preamble is part of the Constitution and that its objectives inform the limits of the amending power.¹³ The Constitution (Forty-

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second Amendment) Act, 1976 added the words "socialist", "secular" and "integrity".¹⁴ The Court has used the socialist commitment to justify redistributive legislation and to read pension and welfare entitlements as incidents of a welfare State.¹⁵ The Preamble thus serves as the normative compass by which Parts III and IV are read together.

III. The Constituent Assembly and the Social Vision of the Framers

The demand that Indians frame their own constitution had matured long before independence. The Nehru Report of 1928 and the Karachi Resolution of 1931 on Fundamental Rights and Economic Programme had already linked political freedom to social and economic rights, including free primary education, a living wage and the abolition of untouchability.¹⁶ The Constituent Assembly, which first met on 9 December 1946, inherited this agenda. The Objectives Resolution, moved by Jawaharlal Nehru on 13 December 1946 and adopted on 22 January 1947, pledged to secure to all the people justice—social, economic and political—together with equality of status and opportunity and adequate safeguards for minorities and backward classes.¹⁷ These words later passed, almost intact, into the Preamble.

The Assembly's working machinery shaped the outcome. An Advisory Committee on Fundamental Rights, Minorities and Tribal and Excluded Areas, chaired by Sardar Vallabhbhai Patel, worked through a sub-committee on Fundamental Rights chaired by J.B. Kripalani and a sub-committee on minorities. The Constitutional Adviser, B.N. Rau, prepared the first draft, and the Drafting Committee chaired by Dr. B.R. Ambedkar was appointed on 29 August 1947 to revise it.¹⁸ It was Rau who, drawing on the Irish Constitution of 1937, proposed dividing rights into those enforceable by courts and those addressed to the legislature as principles of policy.¹⁹

The Assembly deliberated for two years, eleven months and eighteen days before adopting the Constitution on 26 November 1949. As adopted, the text contained 395 articles in 22 parts and eight schedules, making it the longest written constitution in the world.²⁰ Its length was itself a product of the framers' social ambition: they spelt out rights, duties and directives that other constitutions leave to ordinary politics.

The debates on socio-economic rights reveal a deliberate design choice. Several members, including K.M. Munshi and K.T. Shah, pressed for justiciable guarantees of work, fair wages and social security; Shah even proposed that the Directive Principles become enforceable within a fixed period.²¹ The Assembly ultimately separated civil and political rights, which it made enforceable, from social and economic goals, which it entrusted to the legislature and executive. Dr. B.R. Ambedkar defended this choice on grounds of resource constraints, but insisted that the word "strive" in the Directive Principles imposed a real obligation: a government could not plead difficulty as an excuse for inaction.²² Mahavir Tyagi observed that the Directives collected, in orderly form, the revolutionary aspirations of the age.²³

Ambedkar's closing speech of 25 November 1949 states the social premise of the whole document. He warned that on 26 January 1950 India would enter "a life of contradictions": equality in politics but inequality in social and economic life. Political democracy, he argued, could not last unless it rested on social democracy, a way of life recognising liberty, equality

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and fraternity as inseparable principles.²⁴ The Constitution was thus conceived as the instrument through which the contradiction was to be resolved. Its framers did not expect the courts alone, or the legislature alone, to accomplish this; they designed a division of labour among institutions, which the following Parts examine.

IV. Fundamental Rights as Instruments of Social Change

Part III (Articles 12 to 35) contains the justiciable guarantees of the Constitution. Most are framed as limits on State power, but several reach directly into social relations. Read together, they attack the legal foundations of a hierarchical order.

A. Equality: Articles 14 to 18

Article 14 guarantees equality before the law and the equal protection of the laws to every person. Article 15 forbids the State from discriminating on grounds only of religion, race, caste, sex or place of birth, and clause (2) extends that prohibition to access to shops, public restaurants, wells, tanks and places of public resort, thereby binding private actors. Article 16 guarantees equality of opportunity in public employment. Article 17 abolishes untouchability, forbids its practice in any form and makes the enforcement of any disability arising from it an offence.²⁵ Article 18 abolishes titles, removing a symbolic marker of hereditary distinction.

The framers understood that formal equality could entrench existing disadvantage. Article 15(3) therefore permits special provisions for women and children, and Article 16(4) permits reservation in appointments for backward classes inadequately represented in State services. When the Supreme Court in *State of Madras v. Champakam Dorairajan* struck down communal reservations in educational admissions, Parliament responded through the Constitution (First Amendment) Act, 1951 by inserting Article 15(4).²⁶ The Court later accepted, in *State of Kerala v. N.M. Thomas*, that measures of this kind are not exceptions to equality but means of achieving it.²⁷ The nine-judge Bench in *Indra Sawhney v. Union of India* consolidated this approach while imposing limits such as the exclusion of the creamy layer.²⁸ More recent amendments have extended special provisions to admissions in private educational institutions and to economically weaker sections.²⁹

The content of Article 14 has itself evolved. The early test of reasonable classification asked only whether a law grouped persons on an intelligible differentia bearing a rational nexus to its object. In *E.P. Royappa v. State of Tamil Nadu*, the Court added that equality and arbitrariness are sworn enemies, so that arbitrary State action violates Article 14 even without a classification. In *Shayara Bano v. Union of India*, this doctrine of manifest arbitrariness was applied to legislation.³⁰ The shift matters for social transformation because it allows courts to examine whether a rule, though neutral on its face, operates unfairly against the vulnerable.

B. Liberty: Articles 19 to 22

Article 19 secures to citizens the freedoms of speech and expression, peaceful assembly, association, movement, residence and occupation, each subject to reasonable restrictions specified in the text. Articles 20 to 22 protect persons against retrospective criminal laws, double jeopardy, self-incrimination and arbitrary arrest. Article 21, which provides that no person shall be deprived of life or personal liberty except according to procedure established by law, has become the most productive source of socio-economic rights, as Part VI explains.³¹

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Article 21A, inserted in 2002, makes free and compulsory education for children aged six to fourteen a fundamental right, and the Right of Children to Free and Compulsory Education Act, 2009 gives it operational content.³² In *Society for Unaided Private Schools of Rajasthan v. Union of India*, the Court upheld the Act's requirement that private unaided schools reserve a quarter of their entry-level seats for children from disadvantaged groups and weaker sections.³³ The decision is significant because it imposes a constitutional obligation of social inclusion on private institutions, extending the reach of Part III beyond the State.

C. Rights against Exploitation and Minority Rights

Article 23 prohibits trafficking in human beings, *begar* and other forms of forced labour, and Article 24 prohibits the employment of children below fourteen in hazardous work. In *People's Union for Democratic Rights v. Union of India*, the Court held that these guarantees operate against private persons as well as the State, and that payment below the minimum wage may itself amount to forced labour.³⁴ Articles 25 to 28 guarantee freedom of conscience and religion, while Articles 29 and 30 protect the language, script and culture of minorities and their right to establish and administer educational institutions.³⁵

D. The Distinctive Character of Part III

Several features distinguish Part III from the classical liberal model. First, several rights bind private actors, so untouchability and forced labour are constitutional wrongs and not merely crimes. Second, rights are granted to groups as well as individuals, reflecting India's plural and communal history. Third, the permissible restrictions are largely written into the text, rather than left wholly to judicial construction. Finally, Article 32 makes the right to move the Supreme Court for enforcement itself a fundamental right, which Ambedkar called the very soul of the Constitution.³⁶

V. The Directive Principles and the Welfare State

Part IV (Articles 36 to 51) sets out the Directive Principles of State Policy. Article 37 declares that these provisions shall not be enforceable by any court, yet describes them as fundamental in the governance of the country and imposes a duty on the State to apply them in making laws.³⁷ This dual character, unenforceable yet fundamental, has shaped the entire history of constitutional social policy in India.

A. Content of the Directives

The Directives can be grouped by subject. The foundational direction in Article 38 requires the State to secure a social order in which justice, social, economic and political, informs all national institutions, and to minimise inequalities of income, status, facilities and opportunities among individuals and groups.³⁸ Article 39 elaborates the economic dimension: adequate means of livelihood, distribution of material resources to subserve the common good, prevention of the concentration of wealth, equal pay for equal work for men and women, and protection of children against exploitation. Article 39A, inserted in 1976, directs the State to provide free legal aid so that economic disability does not deny anyone access to justice.³⁹

A second group addresses work and social security. Article 41 directs the State, within the limits of its economic capacity, to secure the right to work, education and public assistance in cases of unemployment, old age, sickness and disablement. Articles 42 and 43 require just

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and humane conditions of work, maternity relief and a living wage, and Article 43A seeks workers' participation in management. A third group concerns the vulnerable and the public good: early childhood care and education (Article 45), the educational and economic interests of Scheduled Castes, Scheduled Tribes and other weaker sections (Article 46), nutrition and public health (Article 47) and the protection of the environment, forests and wildlife (Article 48A).⁴⁰ Others direct the organisation of village panchayats (Article 40), a uniform civil code (Article 44) and the separation of the judiciary from the executive (Article 50).

B. Progressive Realisation

The structure of Part IV anticipates the principle of progressive realisation later codified in Article 2(1) of the International Covenant on Economic, Social and Cultural Rights, which obliges States to take steps, to the maximum of available resources, towards the full realisation of socio-economic rights.⁴¹ The qualification in Article 41, "within the limits of its economic capacity and development", performs the same function. Frank Michelman has argued that the fact that social rights require public expenditure does not set them apart in principle from civil liberties, which also depend on costly institutions.⁴² The Indian framers did not deny this; they made an institutional choice to assign primary responsibility to elected organs.

C. Legislative Implementation

The Directives have been given effect through a substantial body of legislation. Land reform statutes, the Minimum Wages Act, 1948 and the Equal Remuneration Act, 1976 (now consolidated in the labour codes) implemented Articles 39 and 43.⁴³ The Legal Services Authorities Act, 1987 implemented Article 39A. The Mahatma Gandhi National Rural Employment Guarantee Act, 2005, the Right of Children to Free and Compulsory Education Act, 2009 and the National Food Security Act, 2013 translated Articles 41, 45 and 47 into enforceable statutory entitlements.⁴⁴ The Constitution (Seventy-third and Seventy-fourth Amendment) Acts, 1992 gave constitutional status to panchayats and municipalities, realising Article 40.⁴⁵ These enactments show that non-justiciability has not rendered Part IV inert; it has channelled its force through the legislature.

D. A Sub-National Illustration: Kerala

The federal structure allows States to pursue the Directives with differing intensity, and Kerala offers an instructive example. The Kerala Land Reforms Act, 1963, as progressively amended, abolished intermediary tenures, conferred ownership on cultivating tenants and secured homestead rights for agricultural labourers.⁴⁶ It is a measure of the constitutional stakes of this programme that *Kesavananda Bharati* itself arose from a challenge to amendments to the Kerala land reform legislation.⁴⁷ Kerala later gave unusual depth to Article 40 and the Seventy-third Amendment. Following the Kerala Panchayat Raj Act, 1994 and the Kerala Municipality Act, 1994, the People's Plan Campaign launched in 1996 devolved a substantial share of the State's plan resources to local bodies and involved citizens directly in local planning.⁴⁸ The Kerala experience suggests that the Directives yield their greatest social effect when legislative commitment, administrative capacity and popular mobilisation coincide.

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E. Fundamental Duties

Part IVA, inserted by the Constitution (Forty-second Amendment) Act, 1976, lists the fundamental duties of citizens in Article 51A. They include duties to abide by the Constitution, to promote harmony and the spirit of common brotherhood transcending religious, linguistic, regional and sectional diversities, to renounce practices derogatory to the dignity of women, to protect the natural environment and to develop scientific temper. The Constitution (Eighty-sixth Amendment) Act, 2002 added the duty of parents and guardians to provide educational opportunities to children.⁴⁹ Like the Directives, the duties are not directly enforceable, but the Court has treated them as relevant to interpreting statutes and assessing the reasonableness of restrictions.⁵⁰ Their social significance lies in recognising that transformation is not solely the State's task; it also requires a change in the conduct of citizens towards one another.

F. The Uniform Civil Code

Article 44 directs the State to endeavour to secure a uniform civil code for citizens throughout India. It remains the most contested of the Directives because it touches the relationship between religious personal laws, gender equality and minority identity. In *Mohd. Ahmed Khan v. Shah Bano Begum* and later in *Sarla Mudgal v. Union of India*, the Court lamented the absence of a common code.⁵¹ The question has acquired renewed relevance with the enactment of a uniform civil code by the State of Uttarakhand.⁵² The debate illustrates a recurring tension in transformative constitutionalism: reforms pursued in the name of equality must also respect the pluralism the Constitution protects, and their legitimacy depends on the process by which they are adopted.

VI. Judicial Harmonisation of Parts III and IV

A. From Subordination to Harmony

In the early years, the Supreme Court treated the Directive Principles as subordinate to Fundamental Rights. In *Champakam Dorairajan* it held that the Directives must conform to, and run as subsidiary to, the chapter on Fundamental Rights.⁵³ The tension between property rights and agrarian reform produced a long contest between Parliament and the Court, culminating in *I.C. Golak Nath v. State of Punjab*, which held that Parliament could not amend Fundamental Rights.⁵⁴ Parliament replied with the Twenty-fourth and Twenty-fifth Amendments, the latter inserting Article 31C to protect laws giving effect to certain Directives from challenge under Articles 14 and 19.⁵⁵

The decision of a thirteen-judge Bench in *Kesavananda Bharati* resolved the immediate contest.⁵⁶ It held that Parliament's power of amendment, though wide, did not extend to altering the basic structure of the Constitution. Subsequent decisions have identified secularism, federalism, judicial review, free and fair elections, the rule of law and equality among the basic features.⁵⁷ The doctrine has a social dimension often overlooked: by placing equality and democracy beyond the reach of amendment, it entrenches the egalitarian core on which the transformative project depends.

In *Minerva Mills Ltd. v. Union of India*, the Court articulated the relationship between the two Parts that now prevails. Fundamental Rights and Directive Principles together constitute the core of the Constitution, and to give absolute primacy to one over the other would

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disturb its harmony.⁵⁸ The Directives set the goals; the Fundamental Rights prescribe the means. Justice B.P. Jeevan Reddy later restated this in *Unni Krishnan, J.P. v. State of Andhra Pradesh*, describing Parts III and IV as supplementary and complementary.⁵⁹

B. Directives as Interpretive Aids

Non-justiciability has not kept the Directives out of the courtroom. From *State of Bombay v. F.N. Balsara* onwards, the Court has treated a law's conformity with a Directive as a strong indication that a restriction on a fundamental right is reasonable, and has required State action in distributing public resources to be informed by the Directives.⁶⁰ In *State of Gujarat v. Mirzapur Moti Kureshi Kassab Jamat*, a seven-judge Bench went further, holding that a total ban could be a reasonable restriction where it advanced the Directives in Articles 48 and 48A read with the Fundamental Duties.⁶¹

The meaning of Article 39(b) illustrates how interpretation of a Directive can change the scope of State power. In *State of Karnataka v. Ranganatha Reddy*, Justice Krishna Iyer read "material resources of the community" to include privately owned resources, a view later endorsed in **Sanjeev Coke Manufacturing Co. v. Bharat Coking Coal Ltd.**⁶² In *Property Owners Association v. State of Maharashtra*, a nine-judge Bench held by majority that not every privately owned resource is a material resource of the community, and that the question depends on factors such as the nature of the resource, its scarcity and its impact on public well-being.⁶³ The decision marks a recalibration of the redistributive reach of Part IV in a changed economic context.

C. The Expansion of Article 21

The most consequential development has been the reading of Directive Principles into Article 21. *Maneka Gandhi v. Union of India* held that any procedure depriving a person of life or liberty must be just, fair and reasonable, and linked Articles 14, 19 and 21 into a single guarantee against arbitrariness.⁶⁴ *Francis Coralie Mullin* then held that the right to life includes the right to live with human dignity and the bare necessities that dignity requires.⁶⁵

On this foundation, the Court recognised a series of derivative rights. These include the right to livelihood of pavement dwellers in *Olga Tellis*,⁶⁶ the right of bonded labourers to release and rehabilitation in *Bandhua Mukti Morcha*,⁶⁷ the right to a pollution-free environment in *Subhash Kumar*,⁶⁸ the right to emergency medical care in *Paschim Banga Khet Mazdoor Samity*,⁶⁹ the right to speedy trial and free legal aid in *Hussainara Khatoon*,⁷⁰ and the right to education in *Mohini Jain* and *Unni Krishnan*.⁷¹ In the right to food litigation, interim orders converted government nutrition schemes into enforceable entitlements.⁷² The nine-judge Bench in *K.S. Puttaswamy v. Union of India* confirmed privacy as an intrinsic part of life and liberty, grounding it in dignity and autonomy.⁷³

D. Environmental Justice

Environmental adjudication shows the harmonising method at its most developed. Reading Article 21 with Articles 48A and 51A(g), the Court in *M.C. Mehta v. Union of India* laid down the rule of absolute liability for enterprises engaged in hazardous activities, departing from the English rule in *Rylands v. Fletcher*.⁷⁴ In *Vellore Citizens' Welfare Forum v. Union of India*, it accepted the precautionary principle and the polluter-pays principle as part of the law

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of the land.⁷⁵ More recently, in *M.K. Ranjitsinh v. Union of India*, it recognised a right against the adverse effects of climate change as flowing from Articles 14 and 21.⁷⁶ Environmental harm falls most heavily on the poor, who depend directly on land, water and forests; environmental justice is therefore an aspect of social justice.

E. Public Interest Litigation

These advances were made possible by procedural innovation. In *S.P. Gupta v. Union of India* and the cases that followed, the Court relaxed the rule of *locus standi* to allow public-spirited persons to litigate on behalf of those unable to approach courts, and accepted letters as petitions.⁷⁷ Public interest litigation turned Article 32 into a channel through which the poor and the marginalised could reach the highest court. It also exposed the Court to the criticism, examined in Part VIII, that it was assuming functions properly belonging to the executive.

VII. Channels of Inclusion

A. Gender Justice

The Constitution guarantees women equality before the law (Article 14), prohibits discrimination on the ground of sex (Articles 15 and 16), and authorises special provisions for women (Article 15(3)). The Directives add equal pay for equal work and maternity relief (Articles 39(d) and 42), and Article 51A(e) makes it a fundamental duty to renounce practices derogatory to the dignity of women.

Judicial interpretation has given these provisions practical force. In *Vishaka v. State of Rajasthan*, the Court held that sexual harassment at the workplace violates Articles 14, 15, 19(1)(g) and 21, and, drawing on the Convention on the Elimination of All Forms of Discrimination against Women, laid down binding guidelines pending legislation.⁷⁸ Parliament enacted the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 sixteen years later.⁷⁹ The Court has since invalidated instant triple *talaq* in *Shayara Bano*, struck down the offence of adultery as founded on the subordination of wives in *Joseph Shine*, and directed permanent commission for women officers in the Army.⁸⁰ Political representation has followed a parallel track: one-third of seats in panchayats and municipalities are reserved for women, and the Constitution (One Hundred and Sixth Amendment) Act, 2023 provides for a similar reservation in the House of the People and the State Legislative Assemblies, to take effect after the next delimitation.⁸¹ The recognition of the rights of transgender persons in *National Legal Services Authority v. Union of India* extended the logic of gender justice beyond the male-female binary.⁸²

B. Scheduled Castes, Scheduled Tribes and Backward Classes

Protective discrimination operates across education, public employment and legislatures. Articles 330 and 332 reserve seats for Scheduled Castes and Scheduled Tribes in the House of the People and State Legislative Assemblies, Article 46 directs special care for their educational and economic interests, and the Fifth and Sixth Schedules provide distinct arrangements for the administration of tribal areas.⁸³ Statutory protection against caste atrocities supplements these guarantees.⁸⁴ Over seven decades, these measures have created a visible class of educated professionals and elected representatives from communities historically excluded from both.

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C. Persons with Disabilities

The original Constitution did not name disability as a ground of protection, apart from the reference to disablement in Article 41. The gap has been filled by legislation and interpretation. The Rights of Persons with Disabilities Act, 2016, enacted to implement the United Nations Convention on the Rights of Persons with Disabilities, adopts a rights-based model and mandates reasonable accommodation and reservation in employment and education.⁸⁵ In *Vikash Kumar v. Union Public Service Commission*, the Court held that denial of reasonable accommodation is itself a form of discrimination.⁸⁶ Earlier, in *Jeeja Ghosh v. Union of India*, it had affirmed that the dignity guaranteed by Article 21 extends fully to persons with disabilities.⁸⁷ This line of development shows the capacity of the constitutional framework to recognise forms of exclusion the framers did not expressly address.

D. Minorities

India's religious and linguistic diversity required that the majority's dominance be checked. Articles 25 to 28 secure religious freedom to all persons, Articles 29 and 30 protect minority cultures and educational institutions, and Articles 350A and 350B provide for instruction in the mother tongue at the primary stage and for a Special Officer for linguistic minorities. Unlike the minority treaties of interwar Europe, which were externally imposed and weakly enforced, these safeguards are internal to the constitutional order and justiciable before Indian courts.⁸⁸ Secularism, recognised as a basic feature in *S.R. Bommai*, binds the State to equal respect for all faiths.

E. Universal Adult Franchise

The most far-reaching democratic reform was Article 326, which conferred the vote on every adult citizen without qualification of property, education, sex or caste. Under the Government of India Act, 1935, the franchise had been restricted by property, tax and educational qualifications to a minority of the adult population.⁸⁹ Ornit Shani has shown that the preparation of the first electoral rolls, undertaken even before the Constitution was finalised, was itself an exercise in constructing democratic citizenship.⁹⁰ Universal franchise made the individual, rather than the caste or community, the basic unit of the polity and placed the power to change governments in the hands of those whom the old order had excluded.

VIII. A Critical Appraisal

The record surveyed above is substantial, but it does not justify complacency. Five difficulties qualify any claim that the Constitution has accomplished the social revolution its framers intended.

The first is the gap between norm and practice. Untouchability was abolished in 1950, yet caste-based discrimination and violence persist, which is why Parliament found it necessary to enact special atrocities legislation decades later. Manual scavenging, perhaps the starkest survival of caste-based occupation, was prohibited by statute only in 2013, and the Supreme Court has had to issue repeated directions on compensation and rehabilitation for deaths in sewers.⁹¹ Gender equality in law coexists with low female labour-force participation and pervasive violence against women. Constitutional guarantees reach most fully those who already possess the resources to invoke them.

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The second concerns the institutional limits of adjudication. Public interest litigation democratised access to the Supreme Court, but scholars have questioned whether continuing mandamus and court-appointed committees are a sustainable substitute for administrative capacity. Upendra Baxi, an early defender of what he termed social action litigation, warned of its dependence on judicial temperament.⁹² Later critics have argued that the PIL jurisdiction has at times displaced deliberative politics and produced outcomes adverse to the very poor it was meant to serve, as in certain slum-clearance and urban-environment cases.⁹³ Judicially created rights without corresponding budgets and institutions risk becoming declaratory.

The third is the tension between group protection and individual equality. Reservation has advanced representation, but its benefits have tended to concentrate within relatively advanced sections of beneficiary groups, a concern the creamy-layer doctrine only partly addresses.⁹⁴ Minority rights similarly require a balance between communal autonomy and the rights of individuals, particularly women, within those communities.

The fourth is the changing form of the welfare State. Social entitlements are increasingly delivered through digital identification, direct benefit transfers and data-driven targeting. These tools can reduce leakage, but they can also exclude those whose biometric data fail to authenticate or who lack connectivity. In the Aadhaar judgment, the Court upheld the scheme for welfare delivery while striking down several provisions and insisting that no eligible person be denied a benefit for want of authentication.⁹⁵ The constitutional promise of dignity now has to be secured in a technological environment the framers could not have foreseen.

The fifth, and the most fundamental, is the deficit of fraternity. Ambedkar regarded fraternity as the principle that gives unity and solidarity to social life, and doubted whether law alone could produce it.⁹⁶ The Constitution can prohibit exclusion and command redistribution, but it cannot by itself create a shared sense of common citizenship. That depends on education, civic culture and political leadership. Ambedkar himself cautioned that even a good constitution would fail if those entrusted with working it were unworthy of the task.⁹⁷

IX. Conclusion and Suggestions

The Constitution of India was designed to resolve what Ambedkar called the contradiction between political equality and social inequality. Its architecture distributes that task across three instruments. Part III dismantles the legal foundations of hierarchy, binding private as well as public actors where the wrong is grave. Part IV commits the State to a welfare order and has been realised through a considerable body of legislation, with States such as Kerala showing how far committed implementation can carry it. The judiciary, through the basic structure doctrine, the use of the Directives as interpretive aids and the expansion of Article 21, has harmonised the two Parts and converted several Directives into enforceable rights. Gender justice, protective discrimination, disability rights, minority safeguards and universal adult franchise have carried these principles into the lives of groups the old order excluded.

The analysis also confirms the working hypothesis stated at the outset. No single institution has been sufficient. Where rights, legislation and adjudication have reinforced one another, as in education, food security and workplace harassment, the change has been

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measurable; where one has acted alone, the result has often been declaratory. The text supplies direction and legitimacy; it does not supply implementation. The following measures would help narrow the gap between promise and practice:

1. **Statutory entrenchment of social rights.** Where courts have recognised a socio-economic right under Article 21, Parliament and State Legislatures should enact frameworks with defined entitlements, budgets and grievance mechanisms, as was done for education and food.
2. **Principled judicial restraint in remedies.** Courts should continue to declare rights robustly but prefer remedies that build administrative capacity and require reasoned executive action, rather than directly managing policy.
3. **Strengthening legal aid under Article 39A.** Effective access to justice for the poor remains the precondition for the enforcement of every other right; legal services institutions require greater resources and community outreach.
4. **Inclusive design of digital welfare.** Technology-based delivery of entitlements should carry statutory safeguards against exclusion, including offline alternatives and time-bound grievance redress.
5. **Constitutional literacy.** Teaching the values of the Preamble and the Fundamental Duties in schools, colleges and public institutions would help cultivate the fraternity on which, as Ambedkar recognised, the rest of the constitutional order depends.

The Constitution remains, in Austin's phrase, a social document. Its continuing relevance lies not in having completed the social revolution but in providing the legal and moral vocabulary through which that revolution can still be pursued.

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7. See *Air India Statutory Corporation v. United Labour Union*, (1997) 9 SCC 377; D.D. Basu, *Introduction to the Constitution of India* (LexisNexis).
8. Amartya Sen, *Development as Freedom* (Oxford Univ. Press 1999).
9. Klare, *supra* note 3; Gautam Bhatia, *The Transformative Constitution: A Radical Biography in Nine Acts* (HarperCollins India 2019).
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15. *Excel Wear v. Union of India*, (1978) 4 SCC 224; *D.S. Nakara v. Union of India*, (1983) 1 SCC 305.
16. Report of the Committee Appointed by the All Parties Conference (Nehru Report) (1928); Resolution on Fundamental Rights and Economic Programme, Indian National Congress, Karachi Session (1931). See Austin, *supra* note 1, ch. 3.
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19. Constitution of Ireland, 1937, art. 45 (Directive Principles of Social Policy); see Austin, *supra* note 1, ch. 4.
20. Austin, *supra* note 1; Basu, *supra* note 7.
21. Constituent Assembly Debates, vol. VII, 19 Nov. 1948.
22. *Id.* at 494–95 (speech of Dr. B.R. Ambedkar).
23. *Id.* (speech of Mahavir Tyagi).
24. Constituent Assembly Debates, vol. XI, 25 Nov. 1949 (speech of Dr. B.R. Ambedkar).
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26. *State of Madras v. Champakam Dorairajan*, AIR 1951 SC 226; Constitution (First Amendment) Act, 1951.
27. *State of Kerala v. N.M. Thomas*, (1976) 2 SCC 310.
28. *Indra Sawhney v. Union of India*, 1992 Supp (3) SCC 217.
29. Constitution (Ninety-third Amendment) Act, 2005 (art. 15(5)); Constitution (One Hundred and Third Amendment) Act, 2019 (arts. 15(6), 16(6)); *Pramati Educational & Cultural Trust v. Union of India*, (2014) 8 SCC 1.
30. *E.P. Royappa v. State of Tamil Nadu*, (1974) 4 SCC 3; *Shayara Bano v. Union of India*, (2017) 9 SCC 1.
31. *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248.
32. Constitution (Eighty-sixth Amendment) Act, 2002; Right of Children to Free and Compulsory Education Act, 2009, No. 35 of 2009.
33. *Society for Unaided Private Schools of Rajasthan v. Union of India*, (2012) 6 SCC 1.
34. *People's Union for Democratic Rights v. Union of India*, (1982) 3 SCC 235.
35. INDIA CONST. arts. 25–30; *T.M.A. Pai Foundation v. State of Karnataka*, (2002) 8 SCC 481.
36. Constituent Assembly Debates, vol. VII, 9 Dec. 1948 (speech of Dr. B.R. Ambedkar).
37. INDIA CONST. art. 37.
38. INDIA CONST. art. 38; clause (2) was inserted by the Constitution (Forty-fourth Amendment) Act, 1978.

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40. Art. 45 was substituted by the Constitution (Eighty-sixth Amendment) Act, 2002.
41. International Covenant on Economic, Social and Cultural Rights art. 2(1), Dec. 16, 1966, 993 U.N.T.S. 3.
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46. Kerala Land Reforms Act, 1963 (Act 1 of 1964).
47. *Kesavananda Bharati*, *supra* note 13.
48. Kerala Panchayat Raj Act, 1994; Kerala Municipality Act, 1994; see T.M. Thomas Isaac & Richard W. Franke, *Local Democracy and Development: The Kerala People's Campaign for Decentralized Planning* (LeftWord Books 2000).
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51. *Mohd. Ahmed Khan v. Shah Bano Begum*, (1985) 2 SCC 556; *Sarla Mudgal v. Union of India*, (1995) 3 SCC 635.
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53. *Champakam Dorairajan*, *supra* note 26.
54. *I.C. Golak Nath v. State of Punjab*, AIR 1967 SC 1643.
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58. *Minerva Mills*, *supra* note 57.
59. *Unni Krishnan, J.P. v. State of Andhra Pradesh*, (1993) 1 SCC 645.
60. *State of Bombay v. F.N. Balsara*, AIR 1951 SC 318; *Kasturi Lal Lakshmi Reddy v. State of Jammu & Kashmir*, (1980) 4 SCC 1.
61. *State of Gujarat v. Mirzapur Moti Kureshi Kassab Jamat*, (2005) 8 SCC 534.
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65. *Francis Coralie Mullin v. Administrator, Union Territory of Delhi*, (1981) 1 SCC 608.
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79. Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, No. 14 of 2013.
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