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Access to Justice, the Judiciary Function, and Human Rights

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Abstract

Human rights and access to Justice program protects individuals from discrimination, violence, injustice and corruption as well as supports international human rights bodies committed to such protection enhancing access to Justice and promoting human rights and fundamental freedoms for all including women, children, and migrated population the Constitution of India as provided for constitutional articles 39A, 14, 21 that guaranteed the citizens the right to access Justice.

Human rights and access to justice is not reaching the people because of the following factors. Illiteracy, lack of awareness of the laws Economic legal political barriers.

Keywords: Human rights, Indian constitution, access to justice, constitutional provisions

Introduction

Human rights are universal rights are in alienable rights getting by birth every individual or every citizen human rights formed the backbone of just society and their protection enforces fundamental rights the right to life and security of person, freedom of thought, religion and expression these include the right to life, right to fair trial, freedom from torture and other cruel and inhuman treatment, freedom of speech, freedom of religion and right to health, education and adequate standard of living.

To justice involves normative legal protection legal awareness, legal aid, and counsel, adjudication, enforcement and civil society. Justice enables people to live in security knowing that they will be protected and treated fairly by the law access to justice is a fundamental right in the common law as well as international human rights law and is essential part of the rule of law.

The main object of this doctrine access to justice means to bring out justice within the reach of the people so this process is being continued to achieve the goal. The problem of access to justice is not only legal but involving with other factors like socio economic, political, cultural, religious illiteracy, lack of awareness of the laws.

The preamble of the Indian constitution guaranteed justice in social, fraternity, integrity, secularism and its paving the way for social justice and, so also welfare state which is the dream of late PM (Prime Minister) Pandit Jawaharlal Nehru in order to achieve this 42nd Amendment act 1976 under this act socialist, secular, Integrity were incorporated in the preamble of Indian constitution, the main object of this mini constitutional amendment is to achieve the social justice and

unity and integrity of India as it is a country of unity in diversity, a pluralistic society and a garland of religion.

Constitutional Provisions on Access to Justice

If any infringement of fundamental rights of the citizens/individuals they will invoke the writ petition under Article 226 of High Court and Article 32 of Supreme Court so also Article 136 Special leave petition under Indian Constitution so also free legal aids and arbitration proceedings and compensations of civil and criminal and for compromising the cases in Lok adalat are established for speedy justice with less cost without any advocates and legal communities are established to people on behalf of the paupers/poorest of poor below poverty line.

Meaning of access to courts is it especially constitute the access to justice one is adjudicating mechanism to ensure accesses to court and there by accesses to justice a fundamental mechanism were established one is tribunals, commissions, Authorities and these instruments are meant for resolution of dispute settlement bodies the process of resolving disputes should be speedy and affordable to the litigants and this alternate dispute resolution is meant for speedy justice and free legal aid these are parallel to the traditional courts in order to avoid the multiplicity of cases.

Landmark Judgments of Apex Court

• Rudulsaah vs State of Bihar 1983

Rudulsaah a political science professor, this case was a Public Interest Litigation (PIL) filed in the Supreme Court under Article 32 of the Indian Constitution were we one can directly

approach the Supreme Court when fundamental rights have been infringed.

- **Bhim Singh vs State of Jammu and Kashmir 1982**

In the case of Bhim Singh vs State of Jammu and Kashmir the petitioner Mr Bhim Singh MLA was deprived of his legal rights he was illegally arrested and detained preventing him from attending the assembly session and depriving him of his Constitutional right.

- **Ashby vs White 1703 UK Case Law**

It is a fundamental case in UK Constitutional law and English tort law it concerns the right to vote and misfeasance of a public officer in this case his legal right was violated.

- **Kesavananda Bhatathi vs State of Kerala 1973 Case**

a writ petition of civil 135 of 1970 is a land mark judgement of the Supreme Court of India that outlined the basic structure doctrine of the Indian Constitution, the case is also known as fundamental rights case.

- **The Chairman Railway Board of West Bengal vs Mrs Chadrima Das 1982**

Hanuffa khatoon a Bagladeshi National was gang raped by Railway Employees in a waiting room of the Railway station at yathri nivas of Howra station in west Bengal, this is a clear violation of Human rights case.

- **Peoples union for democratic rights vs union of India S.C. 1982.**

Asiad games case this is also a fundamental rights case violation of minimum wage case article 21 says dignity and decorum of the individuals so also violation of minimum wages act 1948.

Conclusion

Right to legal aid is also entrenched into various acts live legal services authority act, SC legal services committee, National legal services authorities and Lok adalats and consumer forums, Green tribunals there is a need to improve access to justice for all by providing free legal aid and raising legal awareness on topic and ranging from legal identity and peaceful dispute resolution to family law issues and property disputes including intellectual property rights and the government to improve legal frameworks and to promote Social Justice access to justice is integral to rule of law.

Everyone should be able to seek protection of the laws and legal redress for their grievances.

Removing structural cost barriers to the court system.

Securing for legal aid providers so that they have the resources to meet the needs of low income people.

Seeking representation increasing Pro Bono services.

Bring the legal awareness among the mass public about the rights.

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