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Contemporary legal issues in India with current perspectives

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Abstract

India's legal landscape is as diverse and dynamic as its population. Over the years, the country has grappled with numerous contemporary legal issues, reflecting its complex socio-political fabric. The concept of "power" plays a central role in socio-legal, influencing the dynamics of legal systems and social structures. Power manifests in various forms, ranging from institutional authority to interpersonal influence, and it profoundly shapes the interactions between the law society and individuals. Within the realm of law, power dynamics are evident in the creation, interpretation, and enforcement of legal norms. Legislators wield power through the enactment of laws, which reflect societal values and interests but are also influenced by political agendas and lobbying efforts. Legal experts, including judges and attorneys, have the authority to interpret and implement these laws, so affecting the course of legal precedent and the results of court cases. Furthermore, power encompasses not only official legal institutions but also informal social control systems. Power imbalances in society are influenced by social norms, cultural beliefs, and economic differences, which in turn affect the administration of justice and access to justice. The interconnectedness of power dynamics with concerns of race, gender, class, and other social identities is highlighted by the fact that marginalized groups frequently encounter structural impediments that restrict their capacity to assert their rights within legal frameworks. Furthermore, the allocation of resources and opportunities in a society is shaped by power dynamics. Legal experts, including judges and attorneys, have the authority to interpret and implement these laws, so affecting the course of legal precedent and the results of court cases. Furthermore, power encompasses not only official legal institutions but also informal social control systems. Power imbalances in society are influenced by social norms, cultural beliefs, and economic differences, which in turn affect the administration of justice and access to justice. The interconnectedness of power dynamics with concerns of race, gender, class, and other social identities is highlighted by the fact that marginalized groups frequently encounter structural impediments that restrict their capacity to assert their rights within legal frameworks. In order to advance justice, equality, and the rule of law, it is imperative to comprehend power dynamics in socio-legal contexts. By critically examining how power

operates within legal systems and society at large, scholars and practitioners can work towards creating more equitable legal frameworks and fostering inclusive access to justice for all individuals, regardless of their social status or privilege. (Shabran, 2022)

Meaning of Contemporary Legal Issues?

Contemporary legal issues refer to current and relevant legal challenges and debates that societies face today. These issues often arise due to changing social, political, technological, and economic landscapes. In India, legal contemporary problems include matters such as data privacy, environmental protection, and cybercrime, reflecting the nation's digital transformation.

Socio-legal challenges like racism, economic disparity, and religious fundamentalism highlight ongoing struggles for equality and justice. Constitutional debates around the Citizenship Amendment Act and the Uniform Civil Code illustrate evolving interpretations of rights and freedoms.

Addressing these issues requires continuous legal reforms, effective implementation, and adaptation to ensure justice, equity, and the protection of fundamental rights in a rapidly changing world.

Why Contemporary Legal Issues Must Be Addressed?

Addressing contemporary legal issues is crucial for several reasons.

First, they reflect the dynamic nature of society and the evolving needs of its people. For instance, as technology advances, issues like data privacy and cybercrime emerge, necessitating updated legal frameworks to protect citizens' rights and security.

Second, tackling socio-legal challenges such as racism, economic disparity, and gender inequality is essential to promote social justice and equality. These issues, if unaddressed, can lead to widespread social unrest and hinder national progress.

Third, addressing constitutional and legislative debates, like those surrounding the Citizenship Amendment Act or the Uniform Civil Code, is vital for maintaining the rule of law and upholding democratic principles.

Finally, by proactively addressing these issues, governments can foster public trust, ensure fair treatment, and create a stable environment conducive to economic growth and social harmony.

Socio-Legal Contemporary Issues in India

1. Racism and Inequality

Despite India's constitutional commitment to equality, racism and socio-economic disparities remain pervasive. Discrimination based on race, caste, and ethnicity continues to marginalise certain communities. The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, is one legislative effort to combat such discrimination, but its implementation often falls short. The legal system must address both overt and covert forms of racism to ensure true equality.

2. Economic Disparity

India's rapid economic growth has not been evenly distributed, leading to significant economic disparity. While the wealth of the upper classes has surged, millions still live below the poverty line. The legal framework must evolve to bridge this gap, ensuring fair access to resources, education, and employment. Legal reforms aimed at land redistribution, financial inclusion, and social security are crucial in this regard.

3. Religious Fundamentalism

Religious fundamentalism poses a significant threat to India's secular fabric. The rise of extremist groups and communal violence has led to a polarised society. The Indian Penal Code (IPC) and the Unlawful Activities (Prevention) Act (UAPA) are designed to curb such activities, but their enforcement is often criticised for being selective and biased. Strengthening legal mechanisms to address religious fundamentalism without infringing on fundamental rights is a critical challenge.

4. Linguistic Diversity

India's linguistic diversity is a source of cultural richness, but also legal and administrative complexity. The Official Languages Act, 1963, and the Eighth Schedule of the Constitution recognise multiple languages, but language politics often influence regional and national policies. Balancing linguistic diversity with administrative efficiency requires nuanced legal frameworks that respect regional identities while promoting national unity.

Contemporary Constitutional Law Issues in India

The Citizenship Amendment Act (CAA)

The Citizenship Amendment Act, 2019, has sparked widespread debate and protests. The Act provides a pathway to Indian citizenship for non-Muslim refugees from Afghanistan, Bangladesh, and Pakistan, leading to accusations of religious discrimination. Critics argue that the CAA, coupled with the proposed National Register of Citizens (NRC), undermines the secular nature of the Indian Constitution. Legal challenges to the CAA are pending before the Supreme Court, highlighting the tension between legislative actions and constitutional principles.

Article 370

The abrogation of Article 370 in August 2019, which granted special autonomy to Jammu and Kashmir, has led to significant legal and political discourse. The move was justified by the government as necessary for the region's development and integration, but critics argue that it was done unilaterally, without adequate consultation with the local populace. The legality of this action is under scrutiny, raising questions about federalism and state rights.

Uniform Civil Code (UCC)

The debate over implementing a Uniform Civil Code, as envisaged under Article 44 of the Directive Principles of State Policy, continues. Proponents argue that a UCC would ensure gender justice and national integration, while opponents fear it may infringe on religious freedoms. The challenge lies in drafting a UCC that respects India's cultural diversity while promoting equality and justice.

Reservation Policies

Reservation policies in education and employment aim to uplift historically marginalised communities. However, their effectiveness and fairness remain contentious. The Supreme Court's decision in the Indra Sawhney case (1992) established the "creamy layer" concept for OBC reservations, but the debate continues over expanding and refining these policies. Legal challenges often question the balance between affirmative action and meritocracy.

Emerging Legal Issues in India

Data Privacy

With the Digital India initiative, data privacy has become a critical issue. The Personal Data Protection Bill, 2019, pending in Parliament, aims to regulate the collection, storage, and processing of personal data. However, concerns about government surveillance and the balance between security and privacy persist. Ensuring robust data protection laws that safeguard individual rights without stifling innovation is essential.

Intellectual Property Rights (IPR)

India has made significant strides in strengthening its intellectual property regime, but challenges remain. Balancing the interests of innovators with public access, especially in pharmaceuticals and agriculture, is crucial. The Patent (Amendment) Act, 2005, and the Geographical Indications of Goods (Registration and Protection) Act, 1999, are key legislative measures, but their implementation and enforcement need constant review.

LGBTQ+ Rights

The decriminalisation of homosexuality in the landmark Navtej Singh Johar v. Union of India case (2018) was a significant victory for LGBTQ+ rights. However, legal recognition and protection of LGBTQ+ individuals, including marriage rights, adoption, and anti-discrimination laws, remain areas needing legislative attention. Ensuring comprehensive legal protections is crucial for social acceptance and equality.

Environmental Protection

Environmental degradation is a pressing issue in India. Laws like the Environment Protection Act, 1986, and the National Green Tribunal (NGT) Act, 2010, aim to address these concerns. However, enforcement remains weak, and legal battles often arise over land use, industrial pollution, and deforestation. Strengthening environmental laws and ensuring their stringent implementation is vital for sustainable development.

Online Dispute Resolution (ODR)

With the rise of e-commerce and digital transactions, Online Dispute Resolution (ODR) mechanisms are becoming essential. The Information Technology Act, 2000, provides a framework for electronic governance and adjudication, but specific provisions for ODR are limited. Developing robust ODR systems can facilitate efficient and cost-effective dispute resolution, promoting confidence in digital commerce.

Cybercrime

The increase in cybercrimes, including hacking, identity theft, and online fraud, calls for robust legal frameworks. The Information Technology Act, 2000, addresses some aspects, but rapid technological advancements necessitate continuous updates. International cooperation and stringent enforcement are crucial to combat cyber threats effectively.

Foreign Investment

Balancing the promotion of foreign investment with protecting national interests is a key legal concern. The Foreign Exchange Management Act (FEMA), 1999, and various sectoral regulations govern foreign investments. Ensuring transparency, predictability, and fairness in investment laws is essential to attract and retain foreign investors while safeguarding domestic industries.

Other Contemporary Legal Issues in India

Capital Punishment

The morality and effectiveness of the death penalty continue to be debated. While the Supreme Court has upheld the death penalty in “rarest of rare” cases, there is growing advocacy for its abolition. The debate centres on human rights, deterrence, and judicial errors, highlighting the need for a comprehensive review of capital punishment laws.

Media Trials

Media trials and their influence on public perception and judicial processes raise significant legal and ethical questions. The Supreme Court has often criticised media overreach, emphasising the importance of a fair trial. Establishing guidelines to balance freedom of the press with the right to a fair trial is necessary to uphold justice.

Violence Against Women During the Pandemic

The COVID-19 pandemic has exacerbated issues of domestic violence, with lockdowns trapping many women in abusive households. Legal mechanisms like the Protection of Women from Domestic Violence Act, 2005, need stronger implementation and support systems. Addressing domestic violence requires coordinated efforts from law enforcement, the judiciary, and civil society.

Untouchability

Despite legal prohibitions, untouchability and caste-based discrimination persist in many parts of India. The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, aims to protect marginalised communities, but societal attitudes often undermine legal protections. Strengthening enforcement and promoting social change are crucial to eradicating untouchability.

Artificial Intelligence (AI)

The legal implications of artificial intelligence (AI) are increasingly important as AI systems become more prevalent. Issues of liability, ethics, and regulation need comprehensive legal frameworks. Balancing innovation with accountability and ethical considerations is essential for the responsible deployment of AI technologies.

Blockchain and Smart Contracts

Blockchain technology and smart contracts are transforming various sectors, including finance, supply chain, and real estate. The legal recognition and regulation of these technologies are evolving, with challenges related to enforceability, fraud prevention, and jurisdiction. Developing clear legal standards for blockchain and smart contracts can foster innovation while ensuring security and reliability.

Climate Change Litigation

Climate change litigation is on the rise, with courts addressing issues of accountability, mitigation, and adaptation. Legal actions against governments and corporations for failing to meet climate commitments highlight the need for robust environmental laws. Strengthening legal frameworks to address climate change and enforce environmental obligations is crucial for sustainable development.

Biodiversity Conservation

Legal measures to protect biodiversity are critical as species extinction rates accelerate due to human activities. The Biological Diversity Act, 2002, and various wildlife protection laws aim to conserve biodiversity, but enforcement remains a challenge. Promoting community participation and sustainable practices is essential for effective biodiversity conservation.

Gender Equality

Ensuring gender equality through legal reforms and enforcement mechanisms remains a priority. Addressing issues such as wage gaps, representation, and violence against women requires comprehensive legal and policy measures. The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, and other gender-specific laws need robust implementation to create a just and equitable society.

Ethical Dilemmas in Law and Navigating the Intersection Of Morality And Legality

Ethical dilemmas are pervasive in the legal profession, challenging practitioners to navigate the intricate balance between moral principles and legal obligations. These dilemmas often arise in various contexts, requiring lawyers and legal professionals to grapple with competing interests and values.

1. Conflict of Interest: One prevalent ethical dilemma revolves around conflicts of interest, where a lawyer's duty to prioritize the interests of their client clashes with other moral obligations. For instance, representing multiple clients with conflicting interests or maintaining a professional relationship with a client whose actions may be morally questionable presents dilemmas that demand careful navigation.

2. Truthfulness and Honesty: Upholding the principles of truthfulness and honesty is fundamental to the integrity of the legal system. However, lawyers may face ethical quandaries when their duty to advocate zealously for their client conflicts with the obligation to provide accurate information to the court. Balancing the pursuit of justice with the duty of candour requires a nuanced approach grounded in ethical reasoning.

Navigation Of Morality and Legality

Navigating the intersection of morality and legality requires legal professionals to exercise sound judgment and ethical discernment. While the law provides a framework for conduct, moral considerations often guide decisions that extend beyond mere compliance with legal statutes.

1. Social Justice and Equity: Legal practitioners frequently confront ethical dilemmas concerning social justice and equity. Advocating for marginalized communities or challenging systemic injustices may entail pushing the boundaries of existing legal frameworks. Striving

for a more just society necessitates navigating moral imperatives alongside legal constraints, often requiring innovative approaches to effect meaningful change.

2. **Professional Integrity and Accountability:** Maintaining professional integrity and accountability is paramount for legal practitioners. Ethical dilemmas may arise when faced with pressures to compromise ethical standards for financial gain or professional advancement. Upholding ethical principles, even in the face of adversity, is essential for preserving public trust in the legal profession and safeguarding the integrity of the justice system.

3. **Confidentiality and Disclosure:** The duty of confidentiality is a cornerstone of the lawyer-client relationship, yet ethical dilemmas may emerge when confidentiality conflicts with obligations to prevent harm or uphold the public interest. Legal professionals must navigate these complexities judiciously, balancing the need to maintain client confidences with ethical imperatives that prioritize broader societal welfare.

In essence, navigating ethical dilemmas in law requires a nuanced understanding of legal and moral principles, as well as a commitment to upholding ethical standards in the pursuit of justice and fairness.

For instance, representing multiple clients with conflicting interests or maintaining a professional relationship with a client whose actions may be morally questionable presents dilemmas that demand careful navigation.

The Role of Technology in Shaping Socio-Legal Landscapes

Technology profoundly shapes socio-legal landscapes, altering how laws are accessed, enforced, and created. Digital platforms provide easy access to legal information, empowering individuals to understand their rights. Electronic filing systems streamline court procedures, reducing paperwork and delays, while video conferencing tools make justice more accessible. In law enforcement, technology aids surveillance, crime prevention, and investigation. Surveillance cameras and data analytics assist in monitoring public spaces and identifying suspects. Digital forensics tools help gather evidence from electronic devices, aiding in prosecutions. Technology also influences the creation of new legal frameworks to address emerging challenges[v]. Laws governing online activities, cybersecurity, and intellectual property evolve alongside technological advancements. However, concerns arise regarding privacy, data security, and algorithmic bias. As legal systems adopt automated decision-making processes, ensuring transparency and accountability becomes crucial. In summary, technology revolutionizes socio-legal landscapes, enhancing access to justice, improving efficiency, and shaping new legal norms. Balancing innovation with ethical considerations is essential for fostering a fair and just legal system in the digital era.

Conclusion

In conclusion, the socio-legal landscape is a complex tapestry woven from diverse societal, economic, and technological threads. By understanding the dynamic interplay between these factors, we can strive to create legal systems that uphold justice, equality, and the rule of law.

Through ongoing dialogue, collaboration, and reform efforts, we can navigate the evolving challenges and opportunities in the pursuit of a more just and equitable society. At its core, socio-legal dynamics highlight the reciprocal relationship between society and the law, wherein societal norms, values, and cultural shifts continually influence the development, interpretation, and enforcement of laws. This dynamic interplay sets the stage for the socio-legal framework, which encompasses the structural elements guiding legal systems, including constitutional principles, legislative processes, and judicial mechanisms. Within this framework, efforts to address social justice concerns and enact legal reforms play a pivotal role in fostering fairness, equity, and access to justice for all members of society. Initiatives aimed at rectifying historical injustices, combating discrimination, and protecting human rights are crucial steps toward creating a more just and equitable legal landscape. Navigating the intersection of morality and legality adds layers of complexity to this landscape, as societal perceptions of right and wrong often collide with legal regulations, sparking debates and shaping legal outcomes. Understanding and reconciling these moral and legal dimensions is essential for fostering consensus and upholding the principles of justice within our legal systems. Moreover, socio-economic factors exert significant influence on legal institutions and practices, with economic disparities, corporate influence, and access to resources impacting individuals' experiences within the legal system. In parallel, the role of technology continues to evolve, reshaping legal processes and introducing new challenges and opportunities. Digitalization, artificial intelligence, and data analytics are revolutionizing how legal services are delivered, while also raising concerns about privacy, cybersecurity, and ethical implications. As we navigate these socio-legal landscapes, ongoing dialogue, collaboration, and reform efforts are essential for addressing emerging challenges and promoting justice, equality, and the rule of law. By embracing the complexities of the socio-legal sphere and working towards inclusive, responsive legal frameworks, we can strive to create a more just and equitable society for present and future generations. India's contemporary legal issues are a reflection of its dynamic and diverse society. Addressing these challenges requires a multi-faceted approach, combining legislative reforms, effective enforcement, and societal change. By strengthening its legal frameworks and ensuring their fair implementation, India can navigate these complex issues and move towards a more just and equitable future.

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