

Article 38 of Indian Constitution, Provisions, Amendment, Case Laws

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The Constitution of India places strong emphasis on building a just and equal society. Among the Directive Principles of State Policy in Part IV, Article 38 occupies a central position. It directs the State to create a social system where justice shapes every public institution. The provision reflects the vision discussed in the Constituent Assembly on 19 November 1948 under Draft Article 30. It later became Article 38 in 1950. This Article provides the foundation for promoting welfare and reducing inequalities in independent India.

Article 38 of Indian Constitution

Article 38 of Indian Constitution is titled “State to secure a social order for the promotion of welfare of the people.” It requires the government to actively work towards establishing justice in social, economic, and political fields. Clause (1) focuses on promoting welfare through a just social order. Clause (2), inserted later, strengthens this aim by directing the State to reduce inequalities in income, status, facilities, and opportunities. The Article does not prescribe a specific economic ideology but encourages the creation of economic democracy along with political democracy.

Article 38 of Indian Constitution Provisions

Article 38 of **Indian Constitution** defines the State's constitutional duty to establish justice-based governance and reduce disparities across society.

Article 38 (1)

- The State must strive to promote public welfare by securing a social order where justice guides all institutions of national life in social, economic, and political matters.
- Social Justice Mandate: Social justice under this Article means fair treatment of all sections, ensuring dignity and equal respect in public institutions and governance structures.
- Economic Justice Requirement: The Article directs the State to shape policies that prevent concentration of wealth and promote equitable economic arrangements across society.
- Political Justice Framework: Political justice implies meaningful participation of citizens in democratic processes without discrimination based on status or background.

Article 38 (2)

- The State must work to minimise income gaps between individuals to prevent extreme economic differences within society.
- Equality of Status: The Article instructs elimination of inequalities in social standing among citizens, promoting equal respect in public and institutional life.
- Facilities Distribution: It requires reducing disparities in access to public facilities so that essential services benefit all sections equally.
- Opportunity Equality: The State must remove barriers that prevent fair access to opportunities in different fields of life.
- Group-Based Inequalities: The provision extends beyond individuals to groups residing in different regions or engaged in varied occupations.
- Area-Based Disparities: The Article recognises regional imbalances and directs corrective action to balance development across geographical areas.
- Vocational Differences: It also addresses inequalities among people involved in different professions, ensuring no occupation group is structurally disadvantaged.
- Welfare Orientation: Overall, Article 38 transforms governance into a welfare-focused model aimed at justice-driven national development.

Article 38 of Indian Constitution Amendments

Article 38 of Indian Constitution was strengthened through the **Forty Fourth Constitutional Amendment Act 1978** to deepen its focus on equality and welfare.

- Through this amendment clause (2) was inserted to specifically direct the State to minimise inequalities in income and eliminate disparities in status, facilities, and opportunities among individuals and groups.

- The amendment broadened Article 38 by explicitly covering regional and occupational inequalities, strengthening its social justice orientation.

Article 38 of Indian Constitution Case Laws

Judicial decisions have consistently treated Article 38 of Indian Constitution as a constitutional guide for welfare and substantive equality.

- **Minerva Mills Ltd. v. Union of India 1980:** The **Supreme Court** emphasised harmony between **Fundamental Rights** and Directive Principles, identifying Article 38 as central to achieving a just social framework.
- **State of Kerala v. N. M. Thomas 1976:** The Court interpreted equality as substantive rather than formal, aligning constitutional equality with Article 38's aim of reducing real social and economic disparities.
- **Vishaka v. State of Rajasthan 1997:** The Court relied on Directive Principles to frame workplace safety guidelines for women, reflecting Article 38's commitment to institutional justice and gender equality.
- **People's Union for Civil Liberties v. Union of India 2001:** The right to food was linked with the right to life under Article 21, reinforcing welfare principles consistent with Article 38's mandate.
- **Air India Statutory Corporation v. United Labour Union 1997:** The Supreme Court described social justice as essential for human development and connected it directly to the constitutional vision expressed in Article 38.

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