
GLOBALIZATION'S IMPACT ON JUDICIAL PROCESS AND JUSTICE ADMINISTRATION

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ABSTRACT

We understand globalization as the unrestricted movement of capital, labour, goods, and services across national borders. These economic globalization issues, however, cannot be considered in isolation from other aspects such as the free flow of ideas and practices, for example. The benefits of increased foreign investment, particularly for developing countries, are not limited to economic development stimulation, easy international trade, employment, and so on, but also include resource transfer and the infusion of know-how and best practices. From this perspective, there is room for improvement in various countries' legal systems, both in terms of organizational practices and the advancement of substantive laws. However, there have been some recent conflicts regarding the free flow of ideas, methods, and skills between legal systems from other countries. This study makes an attempt to remark on the growing links between globalization and the law.

Keywords: Globalization, Judicial Process, Law

INTRODUCTION

Globalization is a complicated concept to define as a major concept in today's international scene. Nonetheless, academics have attempted to provide a fundamental explanation of the notion. The concept has been intrinsically associated with the transformation process, which affects every element of global social, political, and economic development. It can be seen of as a process by which the world's population is becoming increasingly entwined in a single society. Globalization, according to scholars such as British sociologist Anthony Giddens (1990), is defined as "the strengthening of international social relations that link distant locales in such a way that local happenings are impacted by events occurring many miles away and vice versa." Globalization can be defined more specifically as "a process linked with expanding economic openness, greater economic independence, and deepening economic integration amongst countries of the international economy,".

The convergence of cultural and economic systems drives globalisation, or globalisation as it is known in various parts of the world. Increased engagement, integration, and interdependence among nations is encouraged – and in some circumstances required – by this convergence. The world grows more globalised when more countries and areas become politically, culturally, and economically intertwined.

STATEMENT OF THE PROBLEM

Globalization has had an impact on the delivery of justice in countries all over the world. The growth of laws and conceptions relevant to Human Rights, Competition Law, Intellectual Property Rights, and other areas in recent years is the best example of this. Globalization has had an impact on how these laws have developed in many countries around the world. This is due to the simple reality that globalisation has linked the economies of countries that formerly had no territorial or physical ties.

RESEARCH QUESTIONS

1. What is the effect of globalization on the legal system and the challenges associated with it?
2. What impact has globalization had on the administration of justice in India and around the world?
3. What role has the Supreme Court played in resolving constitutional challenges to India's

globalisation?

RESEARCH OBJECTIVES

1. To study the impact of globalization on the legal system.
2. To study the role of globalization on the administration of justice and judicial process in India.
3. To analyse the Supreme Court of India's involvement in deciding on constitutional challenges to India's globalisation.
4. To examine how the Supreme Court has reinterpreted the scope of basic rights and judicial review in areas of globalisation through its judgements.

RESEARCH METHODOLOGY

The research methodology used for the study is doctrinal. For the study, the information and facts are gained from primary and secondary sources. Primary sources include statutes and regulations whereas secondary sources include journals, scholarly articles and newspaper reports to substantiate the facts and recent developments in the given area.

IMPACT OF GLOBALIZATION ON LEGAL SYSTEM & OTHER LEGAL CHALLENGES

The various socio-economic aspects of globalization are constantly reshaping the functioning of our judicial systems. In certain types of appellate litigation and adjudication, for example, reliance on foreign precedents is necessary. The actual location of the parties in different jurisdictions makes it necessary to mention and debate foreign statutes and judgements in litigation involving cross-border business activities and family-related issues, for example. As a result, domestic courts are being asked to deal with international legal documents in areas like Conflict of Laws, where they must rule on issues like proper jurisdiction and choice of law, as well as the recognition and enforcement of foreign decrees and arbitral awards.¹ Furthermore, if their respective countries are parties to international instruments (i.e. treaties, conventions, and declarations), domestic courts are compelled to investigate the text and

¹ J. K.G. Balakrishnan, “Justice in the 21st century: The challenge of globalisation”, Introductory note for the plenary session at the Qatar Law Forum (Doha, Qatar), (May 2009)

interpretations of those documents. However, there is room for argument when it comes to citing international precedents in circumstances where local law may not provide enough advice or clarity. This trend has prompted some persons to voice their opposition to the use of foreign law, particularly in cases involving sensitive constitutional problems.

We can all agree that constitutional systems in a number of countries, particularly those with a common-law pedigree, have habitually borrowed concepts and court precedents from one another. Decolonization took place in most parts of Asia and Africa throughout the early years of the United Nations system. The rulings of Constitutional Courts in countries such as South Africa, Canada, New Zealand, and India have become the principal impetus for comparative constitutional law's growing prominence in recent years. With the ever-expanding scope of international human rights norms and the role of international institutions dealing with a variety of issues such as trade liberalisation, climate change, war crimes, the law of the sea, and cross-border investment disputes, among others, there is a trend toward convergence in domestic constitutional law. There is no reason to prevent judicial discussion between different legal systems that share comparable ideals and principles in this era of globalisation of legal standards. The most important stimulus for judicial communication has been the growing number of face-to-face interactions between judges, attorneys, and academics from various jurisdictions.

The majority of the debates about the legal issues raised by economic globalisation focused on multilateral initiatives to promote international commerce and investment. In this context, much research has been done on the World Trade Organisation's (WTO) dispute-resolution activities, as well as the role of arbitral institutions in facilitating dispute-resolution in the event of commercial disputes involving private parties in different national jurisdictions.² The resolution of investment disputes between international investors and host governments has also received significant attention. As a result, international trade law and investment law have grown increasingly important in legal discussions and education.

IMPACT OF GLOBALIZATION ON THE ADMINISTRATION OF JUSTICE IN INDIA

² Sanjay Sarraf, *"Impact of Globalisation on Judicial process"* (March 2021)

Judicial Punishment has existed in all communities and cultures throughout history, not just today but also in ancient times, as evidenced by historical texts and even holy books addressing various sins, religious and otherwise. While the issue of punishment has existed for as long as human history, it is impossible to pinpoint its origins. Rarely do we come across a book presenting laws in any nation at any period that does not touch the topic of crime and punishment, even if the way they are conceptualised varies from country to country and time to time. Despite its lengthy history, punishment is a contentious topic that has spawned a plethora of literature on the subject.

Competition Law: During the Economic Liberalization, India responded well by opening up its economy by removing restraints. As a result, the Indian market faces both domestic and international competition. As a result, strong law was needed to administer justice in commercial matters, and the Competition Act of 2002 was passed. In India, competition law stretches back to the 1960s, when the first competition law, the Monopolies and Restrictive Trade Practices Act (MRTP), was enacted. However, following the 1991 economic changes, this legislation was determined to be outdated in many areas, and a new competition law, the Competition Act of 2002, was enacted in 2003.

Human Rights Law: The evolution of human rights laws around the world can provide a great insight into how globalization has influenced the way justice is administered, as human rights laws have continued to develop around the world as globalization has increased, and nations are now very concerned about human rights violations. Various conventions and conferences have been held around the world to address human rights breaches and to improve the status of human life and dignity.

GLOBALIZATION AND THE FUNDAMENTAL RIGHTS IN INDIA

When India's economy grew rapidly in the 1990s and early 2000s, the Supreme Court's approach to interpreting basic rights and applying rights-based scrutiny changed dramatically. In cases involving major rights-based challenges to economic liberalisation, privatisation, and development policies in the post-1991 era, the Court redefined and adjudicated the scope and meaning of the core fundamental rights contained in Article 14 (equality before the law)³,

³ Section 14- Equality before law The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth

Article 19 (speech, assembly, and other freedoms), and Article 21 (life and liberty)⁴ of the Indian Constitution.

The Court significantly expanded the scope of these rights in the post-Emergency era, resulting in a new arsenal of rights-based frameworks of examination and a new regime of public interest litigation aimed at resolving human rights and governance flaws. However, as this Part demonstrates, since the 1990s, the Court has reinterpreted and potentially curtailed these rights, as well as changed the nature of rights-based examination in the context of globalisation policies. The Supreme Court of India launched a new period of action after Indira Gandhi's Emergency ended in 1977 and the Janata Party was elected, broadening the scope of Articles 14, 19, and 21 of the Indian Constitution.

In *Maneka Gandhi v. Union of India*⁵, the Supreme Court determined that the rights mentioned in each of these Articles were linked; subsequent cases suggested that these rights were inviolable essential features of the Constitution.

LEGAL ISSUES AND GLOBALIZATION

Globalisation is associated with the unrestricted flow of capital, labour, goods, and services across national borders, as we all know. These economic globalisation characteristics, however, cannot be considered in isolation from other factors like as the free interchange of ideas and practises. Increased foreign investment in any area should be evaluated not just in terms of cash flows and wealth creation, but also in terms of technology transfer and the infusion of know-how and best practises, especially from the perspective of developing countries. From this perspective, different countries' legal systems can learn a lot from one another, both in terms of institutional architecture and the growth of substantive laws.

Until recently, the majority of discussions about the legal issues raised by economic globalisation were focused on multilateral initiatives to promote international commerce and investment. In this context, much research has been done on the World Trade Organisation's (WTO) dispute-resolution activities, as well as the role of arbitral institutions in facilitating dispute-resolution in the event of commercial disputes involving private parties in different national jurisdictions. The resolution of investment disputes between international investors

⁴ Section 21. Protection of life and personal liberty No person shall be deprived of his life or personal liberty except according to procedure established by law

⁵ *Maneka Gandhi v. Union of India*, AIR 1978 SC 597; (1978) 1 SCC 248

and host governments has also received significant attention. As a result, international trade law and investment law have grown increasingly important in legal discussions and education. Globalization intensifies state capacity to comply with human rights commitments, notably economic, social, and cultural rights like trade union freedoms, the right to work, and the right to social security. It may also have a disproportionately negative impact on minorities. In the face of an undeniable concentration of wealth in the hands of multinational corporations, greater than the wealth of many countries, international cooperation and non-state players are required. Women are disproportionately affected by globalisation because they endure a disproportionate weight of poverty, which is compounded by economic restructuring, deregulation, and privatisation. The progress of economic liberalisation has also resulted in increased female engagement in the informal sector. Working in the informal sector usually entails a lack of job benefits and protective procedures. Underemployment appears to be as serious a problem as unemployed workers.

CONCLUSION

Because the current situations are a reality and a product of us and for us all, there is no right or wrong approach to tackle them. What influence is felt right away varies, but in theory, we should be able to make it happen in order to generate prosperity for everyone. Justice can only be reached via the existence of togetherness, and mutually beneficial togetherness can only be realised if we recognise that life is not forever, and we recognise human powerlessness in consummate perfection, whether in a former era, a globalisation age, or a future era. As a result, avoiding arguments that result in chaos and even the collapse of an already existent civilization serves as a warning to all of us, while there is no problem that we cannot solve if we work together. Globalization has ushered in a new era in human history. Globalization encompasses more than just economics; it also encompasses the expansion of human creativity.

Both globalisation and justice, in my opinion, require a larger perspective. As we all know, globalisation is a process that promotes increased levels of integration, connectivity, and interdependence among and across societies and cultures all over the world. As a result, justice should not be limited to its legal definition, because globalisation affects many aspects of society, including the economic, legal, social, and cultural.

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