

Concept of Social Justice in the Bhartiya Nyaya Sanhita (BNS) and Manu Smriti: An Overview

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Abstract: The concept of social justice has undergone a profound transformation from the era of the Manusmriti to the contemporary *Bharatiya Nyaya Sanhita* (BNS). *Manu smriti* an ancient Hindu legal text, is primarily known for its endorsement of social hierarchy and differentiation based on caste, gender, and occupation. Its provisions deeply entrenched discrimination by prescribing different rights, duties, and punishments for various social groups, especially favoring the upper castes and men. For instance, the Manusmriti legitimized unequal treatment of Shudras and women, often subjecting them to harsher penalties and restricted rights. Social justice, as understood in *Manu smriti* was less about fairness or equality and more about maintaining the prescribed social order. In this system, laws functioned not to uplift the marginalized but to reinforce the privileges of the dominant classes. Over centuries, such codification of inequality shaped social relations in Indian society, perpetuating exclusion and injustice. In stark contrast, the *Bharatiya Nyaya Sanhita*, a product of modern legislative reform, draws from constitutional principles that prioritize equality, justice, and human dignity. The BNS deliberately rejects distinctions based on caste, creed, gender, or religion, advocating the application of law uniformly to all citizens. By ensuring equal protection and punishment, the BNS aims to correct historical injustices that have long plagued Indian society. Its framework is designed to empower the vulnerable, promote inclusivity, and safeguard the rights of every individual. Social justice, in the context of the BNS, means providing fair opportunities, remedies, and protections to all, especially those who have been historically disadvantaged. The BNS aligns itself with the vision of the Indian Constitution, particularly Article 14, which guarantees equality before law. Unlike the *Manu smriti* there is no room in the BNS for legal privilege based on birth or social status. This legislative evolution signifies a broader societal commitment to universal human rights and the dismantling of entrenched hierarchies. The transition from *Manu smriti* to BNS marks a decisive shift from a justice system that preserved inequality to one that aspires for fairness and inclusion. It is a journey from codified exclusion to legislated equality, reflecting the changing moral and ethical priorities of Indian society. By embracing the principles of social justice, the BNS seeks to serve as a tool for empowerment, aiming to build a more equitable and harmonious society. This transformation underscores the power of law as an agent of social change, capable of challenging and reshaping age-old structures of discrimination. Ultimately, the concept of social justice in India has evolved from reinforcing social divisions to striving for collective upliftment and dignity for all.

Keywords: Social justice, Empowerment, harmonious society, discrimination, Shudras, marginalized.

Introduction - In Indian civilization, the notion of social justice has experienced a substantial development, transitioning from ancient times to the present. Texts like the *Manu smriti* functioned as fundamental moral and legal guidelines in ancient India, establishing a complicated system of obligations, privileges, and penalties based mostly on class, race, and social background. Diverse groups of people had different rights and responsibilities as a result of the *Manu smriti*'s reflection of social justice, which was intricately linked to the patriarchal norms and the dominant varna system. Despite establishing order, this strategy frequently served to strengthen systemic injustices and

restricted disadvantaged groups' access to fair opportunity and mobility.

The principles of social justice have been reinterpreted in light of the Constitution and progressive laws since the establishment of modern India. As the recently proposed criminal code, the *Bharatiya Nyaya Sanhita* (BNS) incorporates these transformational ideals by maintaining non-discrimination, equality, and fairness as fundamental principles of justice. The BNS represents a clear departure from the discriminatory practises of earlier codes like as the *Manusmriti*, since it draws on constitutional principles to provide equal protection to all people, irrespective of

class, race, gender, or social background.

A unique view into the evolving conceptions and uses of social justice in India may be gained by comparing the Manu smriti and even the Bharatiya Nyaya Sanhita. The BNS aims to create an equal legal framework rooted on inherent liberty and the uniformity of rights, in contrast to the Manu smriti's predefined rules that seem to be dependent on heredity and social hierarchy, frequently limiting the rights of women and marginalised groups. This development shows how India's legal and ethical philosophy has changed and remained consistent over the centuries.

In addition, the change from Manu smriti to BNS reflects broader spiritual and moral changes in Indian culture in addition to being a legal one. The BNS's transition to a more fair, inclusive, and just legal system demonstrates India's dedication to democratic principles and human rights. It represents a deliberate attempt to right past atrocities and break down the barriers in which everyone is uniformly protected and empowered by the legislation.

Philosophical Foundation

Manusmriti:

1. *Manu smriti* is rooted in the ancient Hindu conception of *dharma*, where duties and rights are determined by one's *varna* (caste) and *ashrama* (stage of life).
2. Social justice in *Manu smriti* is not based on equality but on hierarchical order, with different rules and rights for Brahmins, Kshatriyas, Vaishyas, Shudras, and others.
3. The code places collective harmony above individual liberty, and prescribes duties to maintain social order.

Bharatiya Nyaya Sanhita (BNS):

1. BNS is based on constitutional values: equality, justice, liberty, and fraternity as enshrined in the Indian Constitution.
2. The law is secular, egalitarian, and applies uniformly to all citizens, regardless of caste, gender, religion, or background.
3. Social justice here means equal protection and equal punishment before the law.

Protection Against Discrimination: As Indian culture and therefore its statutory bodies having developed, bigotry and the quest for equality always remained recurring issues. Normative religious scriptures like the Manu smriti and also the Bharatiya Nyaya Sanhita clearly show the methods used to overcome prejudice in both classical and contemporary India (BNS). Although they both function as moral standards and righteousness for their respective periods, their theoretical foundations and real-world implementations of discrimination are very different. To appreciate the advancements Indian society has achieved in the areas of social sustainability, it is imperative to comprehend these distinctions.

Perhaps one India's first doctrines of society and legal system is the Manu Smriti, which was written in antiquity. But it is also infamous for creating and upholding a strict

caste and gender-based hierarchy. There was systematic discrimination against women and lower castes as a result of the rights, obligations, and punishments being specified with careful consideration for one's place in the social hierarchy. Consequently, the Manu smriti codified stigmatisation itself and made protection against discrimination almost nonexistent in practise, institutionalising inequity.

On the other hand, the Indian Constitution's tenets of equality, fairness, and nondiscrimination form the foundation of the Bharatiya Nyaya Sanhita (BNS), which is a component of the country's new criminal law system. Regardless of ethnicity, religion, gender, or financial status, the BNS aims to provide equal legal protection for all people. Its fundamental tenets are the aggressive defence of personal liberty against discriminatory practises and the elimination of artificial differences. It really is a significant break from historical discriminatory customs.

The transition from Manu smriti to BNS reflects India's changing social consciousness in addition to being a change in the legal code. The goal of contemporary Indian law is to establish a society in which all people are treated equally before the law, acknowledging the perils of systemic discrimination. By including anti-discrimination measures into all of its provisions and guaranteeing that justice is served impartially, the BNS exemplifies this dedication.

The tremendous transformation of Indian society from a heritage of inequality to one that strives for universal fairness may thus be shown through an analysis of the protection against discrimination found in both the Manu smriti and the Bharatiya Nyaya Sanhita. In addition to highlighting the moral and legal advancements made, comparing these two codes serves as a reminder of the ongoing attention to detail needed to preserve and advance equality in a multicultural and ever-changing society.

Rights of Women: Throughout Indian history, the dominant moral and ethical paradigms of the period have influenced women's position and rights. The recently passed Bharatiya Nyaya Sanhita and the ancient Indian Manu smriti are two important legal writings that demonstrate this development (BNS). In addition to the evolving relevant laws of women's rights, an analysis of such documents reveals larger shifts in society perceptions of gender equality and justice.

A submissive role for women is generally prescribed by the Manu smriti, which was written at a period when society was strongly patriarchal. It places a strong emphasis on male family members as women's guardians and limits their independence in areas like marriage, property, and personal freedom. Because women's duties were mostly restricted to the home and their privileges remained constrained by social hierarchy and custom, the rules described in the Manu smriti mirror the conventions of the time.

On the other hand, the Bharatiya Nyaya Sanhita (BNS) is the result of a contemporary constitutional vision that

places a higher priority on social justice, individual rights, and gender equality. Equal legal protection for women is guaranteed by the BNS, which maintains the values found in the Indian Constitution. In order to combat violence against women, safeguard their dignity, and advance their rights to property, individual freedom, and public engagement, it offers strong legal safeguards. In order to address past injustices and realise the promise of a fair society, the BNS places a strong focus on women's rights. The shift from Manu smriti to the BNS is evidence of India's continuous fight for gender equity as well as a legal change. This voyage is a reflection of the goals of women and reformers throughout history who have fought against oppressive traditions and called for women to be recognised as equal citizens. The BNS, which aims to empower women and guarantee their proper position in society, is proof of this advancement with its gender-sensitive measures.

For this reason, studying women's rights in either the Manu smriti and the BNS offers valuable insights into how gender relations are changing in India. From a system that limited women's autonomy with one that works to protect and advance it, it emphasises the progress society has made and the continued need for change and vigilant in the quest for complete equality.

Justice for Marginalized Groups: India's changing ethical and practical orientation is achieved through the development of impartiality for oppressed people. Conventional doctrines such as the Bharatiya Nyaya Sanhita (BNS) and scriptural texts such as Manu smriti illustrate two vastly distinct perspectives on the position and privileges from those who are socially disadvantaged. Comparing and contrasting these writings offers important insight into how Indian society's ideas of righteousness, inclusiveness, and equality have evolved over the ages.

During a period when Indian society seemed highly stratified, the Manu Smriti established a rigorous natural cohesion based on ashrama and varna (caste) (stage of life). Justice was not dispensed equitably under this system; rather, it was based on a person's caste and social standing. The so-called "outcastes" and lower castes sometimes faced harsher penalties and severe limitations, and their enforcement of the law and legal remedy was severely limited. The framework gives excluded populations no security or chance for recourse, codifying stigmatisation and sustaining disparity.

In contrast, the principles of liberty and equality outlined in the Indian Constitution act as a foundation for the Bharatiya Nyaya Sanhita (BNS). Whilst also ensuring that every society, irrespective of social background, has equal treatment under the law, the BNS seeks to overthrow previous hierarchies. In addition to attempting to guarantee them access to justice and equitable treatment under the law, it contains particular measures for the protection and advancement of disadvantaged populations, including Scheduled Castes, Scheduled Tribes, and other

marginalised communities.

The transition from the Manu smriti to the BNS represents a significant movement in the theory of justice itself, not simply a modification of legal laws. The latter aims for inclusivity, dignity, and equal rights, while the former promoted social isolation and division. This shift serves as an example of how Indian society is always moving toward a more fair and just system where the rights and voices of the underprivileged are valued and upheld.

Countries have achieved strides, although there are still issues to be resolved when looking at rights for underprivileged people through into the prisms of the BNS and the Manu smriti. That emphasises how essential to keep working toward access to justice for everyone, particularly to someone who has traditionally been marginalised in society, and how important it is for laws to serve mostly as a manifestation of public ideals as well as an instrument for progressive transformation.

Nature of Punishment: The evolving concepts of justice, social order, and individual rights are reflected in the development of India's legal systems. One of the first legal documents in Indian history, the Manu Smriti, was composed at a period when rigid social structures and religious obligations governed society. These standards had a significant impact on its attitude to punishment, which used a system of incentives and sanctions to maintain the status quo. The Bharatiya Nyaya Sanhita (BNS), on the other hand, is the contemporary criminal code and symbolises a legal theory based on equality, constitutional protections, and human rights, which is a substantial divergence from earlier customs.

Based on the dharma principle, Manu Smriti established penalties, with the kind and severity of the penalty greatly influenced by the victim's and offender's caste, gender, and social standing. While lower castes, especially the Shudras and so-called outcasts, suffered harsher and more degrading types of punishment for the same act, higher castes were often treated more leniently. This was a reflection of the strict social structure of the times, in which the rule of law served to uphold hierarchy rather than guarantee justice for all.

Conversely, the BNS upholds the idea of equality before the law. Regardless of caste, gender, or social standing, it respects every citizen equally. Rather than the identity of the victim or the accused, the circumstances, purpose, and seriousness of the offence decide the kind and extent of punishment. A major departure from the Manusmriti's tiered logic, this egalitarian approach is a pillar of India's constitutional vision.

In Manu smriti, punishments might be as harsh as physical punishment, mutilation, banishment, or even death, or they could be as light as fines and public censure. Many of these physical and public penalties were meant to scare and embarrass others. The idea that suffering would atone for sin and restore cosmic order served as justification for

the use of corporal punishment. In addition, the Manu smriti advocated ceremonial penance, or prayaschitta, in which criminals might make up for their transgressions by participating in religious rites, fasting, or charitable giving.

In contrast, the BNS mostly uses fines, incarceration, and, in some situations, the death sentence as measures of punishment. In compliance with international human rights standards and constitutional safeguards of human dignity, corporal punishment, torture, and public humiliation have all been outlawed. In order to reintegrate convicts into society as law-abiding citizens, BNS places equal emphasis on reformation and rehabilitation as well as deterrence.

According to Manu smriti, the monarch or ruler had the last say over how justice was administered. The monarch was counselled by Brahmin priests or elders who interpreted the law in accordance with tradition and precedent, and the procedure was often opaque. There was a lot of room for arbitrary or prejudiced rulings, particularly in situations involving women or lower castes. This system put group order ahead of individual justice, reflecting the larger societal realities of the time.

Today, the BNS entrusts an impartial, independent court with the duty of administering justice. Every accused person has the right to an appeal, legal counsel, and a fair trial. Because the court is constrained with statutory provisions and set regulations, it is more transparent, consistent, and immune to capricious behaviour. Right to a fair trial, a crucial component was mostly lacking in the old regime, is embodied in the BNS.

In Manusmriti, victims care was not the main priority. Preserving communal peace has been prioritised above personal justice. Victims often had no recourse to justice or restitution, particularly those from disadvantaged communities or lower castes. Inequality was institutionalised and the social hierarchy was strengthened by the harsher punishments meted out for crimes against higher castes than those against lower castes.

The penal structure of the Manusmriti did not prioritise rehabilitation or reintegration. Offenders, particularly those from lower castes, may experience long-term social shame or marginalisation after being punished. Punishment sometimes resulted in the permanent loss of rank or community, and the system seldom permitted a second opportunity.

However, the BNS highlights the possibility of rehabilitation, particularly for young or first-time offenders. In order to reduce recidivism and encourage constructive citizenship, alternatives to jail include community service, probation, and parole. Since criminals are capable of changing, the law aims to facilitate their reintegration into society.

Court procedures are held in courtrooms rather than public squares, and modern justice as it is expressed in the BNS is private and dignified. The goal is to promote respect for the rule of law rather than a fear of authority,

and to preserve the dignity of all parties concerned, including the accused. Cruel, inhuman, or humiliating punishment is not acceptable to the BNS.

Religious atonement and ritual played a significant role in the Manu Smriti sentencing procedure. Donations, self-sacrifice, or prescribed penance might all be used to absolve or lessen crimes. Because of this blending of religion and law, the line separating vice and crime was obscured and spiritual factors frequently affected judicial decisions.

The BNS is a secular law that bases punishment on legal, not religious, justifications. Instead of enforcing religious morality, the goal is to safeguard individual rights and social order. A defining feature of India's contemporary legal system, the separation of church and state is crucial to preserving individual liberty and plurality.

In Manu smriti, community members were often in charge of enforcement, with elders or local councils having a big say in what was punished and how it was carried out. In many cases, this approach led to collective or mob justice, when societal norms or the will of the majority might supersede individual rights.

The BNS ensures checks and balances by giving the state and its legal institutions enforcement authority. People who feel that the system has harmed them have recourse, and law enforcement is subject to court scrutiny. This guarantees responsibility and aids in the prevention of abuse.

Due to the dominating impact of caste, gender, and social standing, the principle of proportionality in punishment was implemented inconsistently in Manu Smriti. Social order was often given precedence over individual justice, and punishments for the same violation might vary significantly according on the people involved.

With a distinct gradient of violations and associated sanctions, proportionality serves as a guiding element in the BNS. By striking a balance between retribution, deterrence, and the potential for change, the law seeks to guarantee that punishment is appropriate for the offence. This method avoids both excessive and insufficient fines while promoting justice.

In the end, the transition from Manu smriti to the BNS represents India's transformation from a traditional, hierarchical society to a contemporary, rights-based democracy. From retaliation and social control, penalty has changed to promote equality, justice, and rehabilitation. Even if there are still issues, the BNS is a monument to the continuous development of justice in India and reflects a dedication to protecting the rights and dignity of every person, regardless of ethnicity.

Equality Before Law: In India, the idea of equality before the law has changed dramatically throughout the ages, reflecting changes in social norms, government, and philosophy. One of the first writings on law and social order, the Manu Smriti, offers a worldview based on distinction and hierarchy. Its provisions, which divided individuals into

many social divisions with unique rights, obligations, and responsibilities, were heavily inspired by the varna system. Modern legislative thought, on the other hand, produced the Bharatiya Nyaya Sanhita, which emphasises democratic ideals and constitutional demands that support equality and secularism.

The notion of dharma, which is understood uniquely one per issues of gender, is inextricably linked to the idea of law in the Manu smriti. Brahmins are often given the most compassionate treatment under the Manu smriti, which lays out distinct laws and penalties for Kshatriyas, Vaishyas, Shudras, and Brahmins. A system where social standing determined legal decisions and individual liberties was institutionalised by this segmentation, which also permeated the penal system, heredity, and racial justice.

Thus, a strict social order was mirrored in and upheld by the Manu Smriti's legal system. The victim's and the offender's castes affected the penalties for comparable crimes. For instance, a Shudra who steals could face a much greater punishment than a Brahmin who commits the same offence. Since the law was a tool for upholding hierarchy rather than guaranteeing fairness, this unequal treatment was in direct opposition to the equal justice ideal.

The legal architecture of the Manu smriti was also heavily influenced by gender. Throughout their lives, women were mostly seen as dependents, first by their dads, then by their spouses, and eventually by their sons. Their legal independence was restricted, and women were often seen as having less credibility than males while testifying in court. These clauses denied women equal legal protection and rights and further solidified gender inequality.

The idea of equality before the law gained traction with the adoption of the Indian Constitution and the steady development of the country's judicial system. Moving away from the discriminatory practises rooted in ancient texts, the Bharatiya Nyaya Sanhita represents a deliberate attempt to reflect these constitutional values. Irrespective of race, race, gender, or religious practice, the BNS is specifically intended to be non-discriminatory, implementing its rules consistently to every person.

Article 14 of the Indian Constitution, which ensures that all individuals inside the country's borders have equal protection under the law, provides the BNS with its fundamental strength. This idea is ingrained in the BNS, guaranteeing that the law does not distinguish between people according to their inherited or assigned status. Justice is supposed to be unbiased and unaffected by the victim's or accused's socioeconomic status.

The manner in which the BNS imposes punishment is among the most notable deviations from the Manu smriti. The legal ramifications are determined by the kind and

seriousness of the violation, not by the identity of the perpetrator. This strategy aims to increase public trust in the judicial system's impartiality and integrity by reaffirming that everyone is subject to the same legal standards.

Additionally, the BNS takes a more inclusive stance on minority rights and gender concerns. In an effort to address centuries of societal disadvantage, provisions are established to safeguard historically oppressed groups, such as women and Scheduled Castes and Scheduled Tribes. The BNS seeks to be an instrument for social justice rather than sustaining current injustices, and legal remedies are available.

Thus, the transition from Manu smriti to the BNS may be seen as a microcosm of India's larger shift from a rigidly stratified society to one that aspires to social justice, equality, and democratic government. This change emphasises how laws may be adjusted to changing social realities and how crucial it is for a contemporary state to enact laws that uphold equality, dignity, and individual rights.

Overall, the Bharatiya Nyaya Sanhita represents the modern ideal of equal justice for everyone, while the Manu smriti codified inequity before the law as a reflection of the social and religious culture of its period. India's dedication to creating a more fair and equal society for all of its citizens is shown by the journey from ancient writings to current regulations, which represents not just a legal shift but also a significant social and ethical growth.

Conclusion: The Manu smriti and the Bharatiya Nyaya Sanhita represent two vastly different visions of social justice. While Manu smriti reflects the values and norms of an ancient hierarchical society, the BNS embraces the modern ideals of equality, fairness, and individual rights. In today's India, laws are designed to protect the dignity and rights of every citizen, aiming for a just and inclusive society.

In divergence, the Bharatiya Nyaya Sanhita represents a progressive shift toward a more inclusive and egalitarian notion of justice. Drawing from constitutional values, the BNS seeks to create a legal framework where protections and penalties apply equally to all, regardless of their background. By prioritizing equality before law and aiming to safeguard the rights of marginalized groups, the BNS aspires to correct historical wrongs rather than reinforce them.

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