

Modernisation and the Law: A Sociological and Legal Analysis

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Abstract

This article critically examines the concept of modernization and its legal and sociological significance in India. It surveys theoretical frameworks Sanskritization, Westernization, Little and Great Traditions, and the dialectical approach and assesses how modernization has interacted with constitutional development and legal institutions. The article identifies political, economic, and cultural challenges to modernization and discusses resistance in the form of post-modern critiques. It concludes that law and constitutionalism remain essential instruments of modernization but cautions that modernization must be harmonized with social equity and ecological stewardship to be sustainable.

Keywords: *Modernization; Law; Society; Social Transformation.*

1. Introduction

Social change is an inevitable process that accompanies political, economic, and technological development. No society remains hermetically sealed; contact with other systems and internal aspirations produce continuous transformations in institutions, norms, and behaviours. Modernization describes not only changes in external institutions but also shifts in beliefs, values, and modes of social organization. These transitions differ in pace and quality across societies, depending on historical context and the drivers of change. India's modernization trajectory is shaped by colonial encounters, indigenous reform movements, and contemporary forces such as industrialization, urbanization, and globalization.¹¹

Modernization, in this context, is not merely the adoption of new technologies or institutions but a fundamental reorientation of society that reshapes belief systems from metaphysical or tradition-based explanations to scientific rationality and reorganizes social structures from hierarchical, status-bound arrangements to more egalitarian and achievement-based roles. It also transforms economic relations as societies move from subsistence and agrarian systems to industrial and post-industrial modes of production, and replaces political frameworks rooted in monarchy and customary authority with constitutional, democratic, and bureaucratic institutions. The pace and pattern of modernization vary widely depending on a society's historical experiences and cultural foundations: societies with rigid traditional hierarchies or deeply embedded cultural practices often undergo modernization slowly and unevenly, while those with more flexible cultural systems may adapt more readily to institutional change. India's modernization is particularly complex and multilayered due to its unique historical trajectory. Colonial rule acted as a dual catalyst, simultaneously disrupting traditional institutions and introducing modern administrative, legal, and educational structures, making modernization both transformative and politically contested. Indigenous reform movements led by figures such as Raja Ram Mohan Roy, Jyotiba Phule, B.R. Ambedkar, and Dayanand Saraswati contributed to this process by engaging with modern ideas of rights, rationality, and education while reinterpreting tradition from within. Following independence, India undertook a conscious project of nation-building through the adoption of a democratic Constitution, expansion of education, and pursuit of industrial growth, thereby embedding secular, rights-based, and welfare-oriented values into its institutional framework. Economic liberalization in 1991 further integrated India into global markets, accelerating technological change, urbanization, and cultural hybridity, though also exacerbating socioeconomic inequalities. At the same time, persistent traditional structures caste, religion, kinship, and community

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continue to shape identity, mobility, and access to opportunities. As a result, Indian modernization unfolds in a dialectical relationship with tradition, not through outright replacement but through coexistence, negotiation, and selective adaptation. These overlapping dynamics make it clear that modernization in India cannot be understood through a linear or uniform model; rather, it constitutes a form of “layered modernization” that is progressive yet uneven, adaptive yet conflict-laden, and continuously evolving.

2. Methodology, Scope, and Aims

This study is descriptive-analytic and draws primarily on established secondary literature in sociology, law, and political theory. Its aims are to clarify competing conceptualizations of modernization; examine how modernization has manifested in India (Sanskritization, Westernization, Little and Great Traditions, dialectical processes); and analyse the role of law particularly constitutional law as an instrument of modernization and social integration.³

3. Modernization: Definitions and Core Features

Modernization denotes the complex social processes by which traditional societies adopt institutional, economic, and cultural forms associated with modern life: industrial capitalism, urbanism, secularization, rational-legal authority, and wider social mobility. Scholars emphasise different aspects: Giddens highlights institutional transformation and reflexivity in modern social life; Bellah stresses the “rationalization of ends”; and other scholars chart the economic and political dimensions of modernization as they affect social structure and individual agency.¹

4. Conceptual Tools: Sanskritization, Westernization, Little/Great Traditions, Dialectics

M. N. Srinivas’s concept of Sanskritization explains a pattern of social mobility in India whereby lower status groups adopt the rituals and practices of higher castes to enhance social standing.³ Westernization refers to the diffusion of Western institutions, technology, and normative frameworks most visibly during the colonial period in India.⁴ Redfield’s Little/Great Traditions framework and subsequent Indian adaptations (Singer, Marriott) highlight interaction between localized folk cultures and elite, pan-regional cultural systems.⁵ Dialectical models (inspired by Marxian analysis) emphasize the structural and material bases of social change: class formation, economic reorganization, and the contradictions that drive synthesis and new social forms.⁶

5. Dichotomies and Challenges in India’s Modernization

India’s modernization faces intertwined political, economic, and cultural challenges. Political challenges include the difficulty of mobilizing diverse constituencies for constitutional projects and the lag between formal legal change and social practice. Economic challenges involve uneven distributional effects of industrialization and globalization. Cultural challenges center on pluralism and the contested boundary between universal legal norms and particularistic religious or customary claims. These challenges show modernization is not linear; rather, it is contested, multifaceted, and path-dependent.⁷ Economically, modernization has produced uneven results. While industrialization, technological growth, and globalization have expanded opportunities for some, they have also generated stark regional and class disparities. Liberalization policies have disproportionately benefited urban, educated, and globally connected groups, while many agricultural workers, informal laborers, and rural communities struggle with insecurity, declining traditional livelihoods, and limited access to modern economic institutions. This uneven distribution of the gains of modernization can create alienation, fuel social conflict, and intensify distrust in modernizing reforms.

Culturally, modernization interacts with India’s deep pluralism in complex ways. The expansion of universal legal norms such as individual rights, gender equality, and secular governance often encounters resistance from groups that see such norms as incompatible with religious doctrines, caste hierarchies, or customary traditions. The tension between personal law systems and the constitutional call for equality illustrates how modernization can become a site of political contestation rather than straightforward progress. Moreover, efforts to promote uniform legal frameworks must contend with fears of cultural erasure, especially among minority or marginalized communities.

These overlapping challenges demonstrate that modernization in India is not a linear or uniform process but a contested, multifaceted, and path-dependent transformation, shaped by historical legacies, social inequalities, and

competing visions of national identity. Rather than progressing along a single trajectory, modernization in India evolves through negotiation, conflict, selective adaptation, and ongoing attempts to balance tradition with the demands of a rapidly changing society.

6. Modernization and the Law

Law is both a tool and a terrain of modernization. Modern legal systems expand the reach of state norms, replace localized customary adjudication with national jurisprudence, and institutionalize rights and procedures. Modernization often requires legal reforms: codification of private law, establishment of administrative agencies, development of juvenile and labor laws, and expansion of regulatory frameworks to manage complex economic activities. Galanter's critique that transplantation of Western legal forms does not guarantee social modernization remains salient: law must be responsive, adaptable, and embedded in social structures to be effective.⁸ Yet, as Galanter observes, the mere transplantation of Western legal forms does not automatically produce social modernization. Imported legal codes may remain ineffective or even distortive if they are not congruent with local social structures, power relations, and cultural expectations. Effective modernization therefore requires law that is context-sensitive, socially embedded, and institutionally adaptable. Laws must be supported by capable enforcement mechanisms, responsive bureaucracies, and accessible adjudicatory structures; otherwise, formal legal reforms risk becoming symbolic rather than transformative. In India, this dynamic is clearly visible: despite the presence of sophisticated legal institutions, the pace and depth of modernization often depend on how well legal reforms resonate with social realities, empower marginalized groups, and adapt to the complexities of a plural society. Thus, law's modernizing role is contingent—not automatic—requiring continuous alignment between normative aspirations, institutional capacity, and social acceptance.

7. The Indian Constitution as an Instrument of Modernization

India's constitutional framework embeds many modernizing commitments: equality before law, prohibition of discrimination, fundamental freedoms, and directive principles aimed at social welfare. The Preamble's commitments to justice, liberty, equality, and fraternity reflect the constitutional aspiration to combine universalist norms with social welfare goals. Provisions such as Articles 14–17 (equality), Articles 19 and 21 (liberties and life), and the Directive Principles (Part IV) constitute a legal architecture intended to foster social mobility, secularism, and welfare policies consistent with modernization goals. At the same time, constitutional provisions that preserve cultural plurality (Articles 29–30; federalism; protection for minority institutions) point to the constitution's hybrid role: promoting modernization while protecting plural identities.⁹

India's constitutional framework not only embeds modernizing commitments in a formal sense but also operationalizes modernization through its structural design, institutional mandates, and interpretive jurisprudence. Articles 14–17 collectively dismantle the hierarchical and exclusionary features of traditional Indian society particularly caste, gender inequality, and practices rooted in birth-based status. This reflects a deliberate constitutional rupture from pre-modern social ordering. Article 14's abstraction *equality before law* and *equal protection of laws* introduces a modern, rational-legal principle distinct from traditional ascriptive norms. By outlawing untouchability in Article 17, the Constitution directly confronts entrenched cultural practices that had withstood centuries of socio-religious reform efforts.

Fundamental freedoms under Article 19 and the expansive interpretation of Article 21 represent another axis of modernization: the shift from collectivist, status-bound identities toward individual autonomy. The Supreme Court's jurisprudence has further strengthened this dimension through doctrines such as privacy as a fundamental right in *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1; the right to education in *Mohini Jain v. State of Karnataka*, (1992) 3 SCC 666, and *Unni Krishnan, J.P. v. State of Andhra Pradesh*, (1993) 1 SCC 645; and the right to die with dignity in *Common Cause (A Registered Society) v. Union of India*, (2018) 5 SCC 1. These decisions have converted abstract constitutional ideals into actionable modern rights, reinforcing India's transition toward an autonomy-centered constitutional order. The Directive Principles (Part IV), while formally non-justiciable, form the ideological blueprint of India's welfare state. They direct the State to minimize inequalities, provide adequate livelihood, ensure humane working conditions, advance gender justice, and democratize economic power. Together,

these embody the key features of modern governance: redistributive justice, social security, and the democratization of opportunity. The Supreme Court has repeatedly held that Part III (Fundamental Rights) and Part IV (Directive Principles) must be read harmoniously, developing the doctrine of “constitutional simultaneity” a modernist interpretive stance that dismantles the older dichotomy between rights and welfare. Yet, the Constitution simultaneously safeguards cultural plurality through Articles 29–30, which protect minority languages, scripts, and religious institutions. This demonstrates that Indian modernization is not modelled on homogenization, unlike certain Western models that equate modernization with cultural uniformity. Instead, the Constitution adopts a plural-modern approach: it modernizes political and legal institutions while maintaining space for diverse cultural expressions. This hybrid constitutionalism reflects India’s historical complexity and reinforces the point that modernization in India does not equate to Westernization; it is contextual, negotiated, and layered. Federalism particularly asymmetrical federalism in Articles 370 (as originally framed), 371A–371G, and the Sixth Schedule further illustrates the Constitution’s calibrated balance between national integration and regional autonomy. Such provisions accommodate traditional governance structures of tribal and northeastern communities while introducing modern administrative and political institutions. This demonstrates modernization through institutional adaptation rather than replacement, acknowledging that social transformation must be sensitive to cultural ecosystems.

In practice, the Constitution has served as both a symbol and instrument of modernization:

- symbol, because it embodies the aspirations of a new democratic nation breaking from colonial and pre-colonial histories;
- instrument, because its enforceable rights and institutional frameworks actively reshape social relations, economic entitlements, and political participation.

However, the success of constitutional modernization depends heavily on state capacity, political will, judicial innovation, and civic literacy. Unequal implementation across regions and social groups often results in a fragmented modernization process—where urban, educated citizens experience constitutional modernity more fully than rural, marginalized communities. Thus, India’s constitutional architecture reflects a dialectical interplay of tradition and modernity an attempt to bring about rational, secular, egalitarian governance while respecting the cultural and civilizational diversity that defines India’s social fabric.

8. Resistance to Change: Postmodern and Critical Perspectives

Postmodern critiques warn against an uncritical embrace of modernization, pointing to the environmental, social, and ethical costs of technological progress and market expansion. These critiques highlight how modernization can deepen inequalities, generate ecological harm (for example, pesticide overuse after the Green Revolution), and commodify social life. A dialectical corrective is necessary: embrace the emancipatory potentials of modernization (rights, social mobility) while instituting safeguards that prevent its pathologies.¹⁰

9. Conclusion

Modernization has reshaped Indian society and law without fully erasing traditional structures. Constitutionalism and modern legal institutions have been central to this process, yet the law’s reformatory potential depends on effective implementation and institutional capacity. For modernization to be socially just and environmentally sustainable, reforms must combine legal modernization with social policies that improve education, labour protections, rural livelihoods, and environmental regulation. The future of India’s modernization will therefore be determined not only by the adoption of modern institutions but by the extent to which those institutions are inclusive, accountable, and ecologically attentive.¹¹

For modernization to be socially just, it must move beyond formal legal reforms and address the structural inequalities that have historically constrained marginalized communities. This requires sustained investment in education, public health, labour protections, and rural development, alongside reforms that expand access to justice and strengthen legal literacy among vulnerable populations. Equally important is the need for environmentally responsible modernization. Rapid industrial expansion and unregulated technological growth have generated ecological stress, making

environmental governance an essential component of modern development. Integrating environmental safeguards into economic planning, strengthening regulatory institutions, and promoting sustainable technologies are therefore central to achieving a balanced and responsible modernity.

The future trajectory of India's modernization will depend not merely on the adoption of modern laws and institutions but on how inclusive, participatory, and accountable those institutions become in practice. A modern society cannot thrive on legal and economic reforms alone; it must cultivate democratic citizenship, institutional responsiveness, and ecological consciousness. India's modernization, therefore, must be conceived as an ongoing project one that harmonizes progress with equity, development with sustainability, and institutional rationality with cultural diversity. Only through such a holistic and integrative approach can modernization be meaningful, enduring, and aligned with the constitutional vision of justice, liberty, equality, and fraternity.

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