



SOCIAL JUSTICE IN THE CONTEMPORARY INDIA

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INTRODUCTION

The concept of social justice is mainly based on the idea that all men are equal in society without any difference of religion, race, color, caste or creed. The constitution describes justice at the first promise of the republic, which means that state power, will implement the pledge of justice in favor of the millions, who are the citizens of the state. Social justice is people's justice where the tyranny of power is transformed into the democracy of social good. According to Aristotle justice is equality. He considers equality as a quantity of two extremes and equidistance. If unjust is unequal and just is equal, as all suppose it to be even apart from arguments to the Rawls theory of justice which consist of following Principles:

- (i) Economic and Social inequalities are to be organized so that both are realistically expected to be every one's advantage and
- (ii) Attached position and offences - open to all. A philosophy of justice envisages lexical order of priorities among the principles, that is to say first shall prevail over second and first part shall prevail over second portion of the objection are vocal against forms of social justice which finds a place at fundamental level. The appropriateness of the term itself is in question.

State cannot make any law which yield away or edits the fundamental rights guaranteed to citizens. Citizens can enforce these rights through court. On the other hand, those principles dealing with directive principles are not enforceable in court of law by citizen even though he is grievously effected by lack of these rights.¹ But even though unenforceable they are nevertheless required as dominant in the governance of the country and it is the duty of the State to apply them while making laws. Articles 38 and 41 exemplify this aspect. One notices the collection of at least three major concepts of equality. There are numerical, the meridian and proportionate perception of equality, but according to scholastic merit or achievements of studying the person who is the first might be given the 2nd amount regardless of the fact whether he is rich or poor. This is based on the meridian concept which is conducive to the efficiency in society. Secondly, mode of distribution is created on need or poverty of students, i.e., in proportionate to the income of parent of student or poorest among them. This is built on the concept of proportionate equality under which a relevant criterion or characteristic chosen for making the distribution, thirdly the distribution has to be divided equally among all students. This kind of distribution is called numerical equality. Thus contributory notion of equality is the problem arising out of balancing of these inequalities. Government takes care with regard to social affairs. Social Justice seeks to fulfill three distinct urges of people viz. Equality, Liberty, and Fraternity.² It must always be remembered that equality is a branch of justice. The great quality of justice is that it commands instinctive respect and is well-tolerated even by those against whom it operates. Social Justice is mostly concerned with the claims of the deprived sections of the society, who have been depressed from their rights; freedom and opportunities of development because of a defective social system. But the claims of other groups and sections in

the society are not to be ignored.

The inbuilt issues of human rights are discrimination on the basis of caste, color, religion, gender, economic condition so on so forth. As such mentioned, all the nations and Nation-states are affected with any kind of discrimination mentioned.

MACHINERY OF JUDICIARY

India which is composed of societies of so many races, languages, religions, castes and cultures, can attain unity only if there is a spirit of brotherhood amongst all sects of people, a feeling that they are all children of the same soil, the same motherland. A fair and evenhanded executive administration can do more to promote fraternity than any constitutional or legal provision. The Indian Constitution, it has been aptly said, is first and leading social document and a majority of its provisions are both directly aimed at fostering the aims of social revolution or attempt to foster the revolution by establishing the conditions necessary for its achievement and the basic of commitment of social revolution is in parts III and IV, in the fundamental rights and in the directive principles of state policy, which are the principles of the constitution³. But just as the fundamental rights discussed by Part III would be starved from radar and a compass if they are not geared to an ideal, in the similar way the attainment of the principles set out in part IV would turn out to be a pretence and dictatorship, if the value to be paid for attaining that ideal is human freedom. One of the beliefs of the founding fathers was purity of means. The goals fixed in our part IV collectively constitute the core of the constitution and combine to form its integrity. Marx rejected justice as an ideal. We need not, therefore, attempt to reconcile his pattern of socialism with the demand of justice, although he was very keen to promote the interest of the working class, the oppressed and the exploited sections of the society. According to Marx, it is essential to transform all private property into public property in the interest of fraternity because capitalism is the basic reason of division of society in two antagonistic classes. Personal property will, however, be allowed to remain untouched as a concession to the condition of scarcity. The evil principle of the socialist phase shall be "from everyone according to his ability and to everyone according to his work." It is only at the stage of abundance that the evil principle would be "From everyone according to his ability, to everyone according to his need." But it is fruitless to build a theory based on certain assumptions ignoring human nature. It is a quality of human nature that a person is inclined to put in his best and to strive for excellence without adequate reward which distinguished him from others⁴. If people are assured of a living with a moderate effort and exertion both physical and mental the society would lag behind others in merits and excellence though the people may be assured of a modest living with average comforts free from want and disease. The long run the society should decay, because the members of the society, who are gifted with talent would either lose heart in striving for excellence or may defeat to other states where there is free scope for cultivation of merits and talent, on the basis of a free and fair competition and where they are given due recognition and amply rewarded. It may be noted that part III of the constitution lays down certain fundamental rights which

guarantee inter alia, liberty and equality to every citizen of India without any kind of humiliation or discrimination on the ground of race, religion, sex, caste and so on. This guarantee is against and infringement thereof by the state or even by a legislature, including the parliament, and can be enforced by a writ plea in the Supreme Court under article 32 of the Constitution. Thus as far as the liberty is concerned the relevant provisions are articles 19 and 21. Article 19 sets down that every citizen shall have the right:

- (a) to freedom of speech and expression.
- (b) to assemble peaceably and without arms;
- (c) to form associations or unions;
- (d) to move freely throughout the territory of India;
- (e) to reside and settle in any part of India;
- (f) to acquire, hold and dispose of property;
- (g) to practice any profession or to carry any occupation, trade or business.

The aforementioned rights are, however subjects to certain restriction in public interests as laid down therein. Article 21 is another very important articles so far as liberty is concerned. It lays down that not any person will be deprived of his/her life or personal liberty except according to way recognized by law.⁵

According to L.T. Hobhouse "Common Good" is the rational or ideal object in pursuance of which liberty is granted. Firstly liberal philosophers upheld "Laissez faire" as an essential attribute of liberty. This meant non-interference by the state in economic activities to enable the market forces to operate freely. Thus the early liberalism stood for negative liberty interpreted as "Absence of Restraint" that is absence of undue or arbitrary interference with individual action on behalf of the Government. Since this concept of liberty led to exploitation of working section of people in society and other weak sections of the society, the positive role for the state was assigned for sanctioning favourable conditions for the under-privileged sections, e.g. guard of the workers and other weaker sections and making provision for their well-being including provisions for schools, hospitals, transport housing and so on. Liberty as an optimistic concept comprises liberties or human rights which are essential to the growth of the individual and the rightness of national life for example liberty of expression and thought. The negative and positive concepts of liberty exists shoulder to shoulder in the present day society with varying emphasis on each under different system (Element of Social Justice).

CONCLUSION

Social justice is the basic and noble ideal that has been stipulated in the directive principles of state policy (part IV) and also in fundamental rights(part III) of the Indian constitution. Right to equality, Freedom of speech, Right to association are all the ingredient parts of the law of the land which are not effectively implemented for the past 7 decades."Article 32 of the Indian constitution is the soul of the sanctified document "remarkably stated by Ambedkar during the constituent assembly debates. It is not the fault of the written document, but it is the fault of the persons who implement in a negative manner, also stated by the Chairman of the drafting committee. Thus, hitherto Indian people are facing caste discrimination and violence in a majority level and that has to be concerned and considered in the globalized India.

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