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Co-Relation of Social Justice with Human Rights: A Review

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ABSTRACT

Social Justice is the equality of all people getting everything may need to survive. This means that no matter who the people are, they will receive all what they require. Human and Social needs are specific necessity that people need. Their inter-connection is the major characteristics of the Social Justice of People.

According to John Rawls, "Justice is the first virtue of Social institutions. The role of justice is crucial to the understanding of Human right." The principle of Justice provide way of assigning right and duties in the basic institutions in the society. The general concepts of justice behind the principle of justice is one of fairness. The concept of fairness and justice help to determine all social primary goals. Social justice is the integral part of justice in the generic sense, Justice is the genius of which social justice is one of the species.

Keywords : Egalitarianism, Plenipotentiaries, Inviolable, Inalienable

Social Justice, a conceptual premise signifies the movement towards a socially just world, wherein social justice is based on the concept of human rights and equality and involves a greater degree of economic egalitarianism. The term 'Social Justice' was propounded by the Jesuit, Luigi Taparelli D' Azeglie, an Italian Catholic Scholar of the society of Jesus in 1840 and was popularised by John Rawls, an American Philosopher and a leading figure in moral and political philosophy in 1990.

Ubi societas ibi jus, signifies that when there is society, there is justice, but the understanding in the notion of justice change with the change in time and differs with the difference in culture, civilization and place. One conception of justice is more reasonable than another or justifiable with respect to it, if rational person in the initial situation would chose its perception over those of the other for the role of justice. Conception of justice is to be ranked by their acceptability to persons so circumstanced.

Law is a means of securing the conditions of social life though not the only means, yet these conditions may exist independently of law. A significant part of these conditions of social life are secured entirely by the law, e.g. respect for property, raising of the public revenue and military service. The issue of justice involved practical issues concerning environmental conservation and improvement.

The expression "social justice" can not to put in a strait jacket, though it is generally understood to mean greater good to a large number of people without total deprivation of legal rights of any body or even serious detriment to them.

The principles for just law are universal proposition which start from the heights of the absolute idea of law and bring its commands down to earth and divide them, whereas it is the function of one model for just law to come up to meet them from below. It has to gather in unitary fashion the conditioned material of larger experience and lay it before the plenipotentiaries of the appellate monarch – the idea of just law.

The term human right indicates both their nature and their source. They are the rights that one has simply because one is human and is required to be treated with dignity.

Drug abuse, alcoholism, Aids, Child abuse, poverty, unemployment and crime are not individual problems but effect the public

at large. Individual problem is one which affects one individual or one group. A public issue is one which effect the society as a whole or larger part of society. A social problem is a situation confronting a group or section of society which inflicts injurious consequences that can be handled only collectively.

Law is a means of securing the conditions of social life and these conditions exist independently of law either in part or more rarely altogether, but the degree of independence and of legal support is itself variable.

The concept of an egalitarian order of society is fraught with grave misgivings and it implies on order of society when all persons are equal. But idealistic equality is a myth because all the four fingers of a hand are unequal in size.

The concept of 'social justice' as engrafted in the Constitution of India consists of diverse principles essential for the growth and development of personality of every citizen. Social justice is an integral part of justice in the generic sense, justice is the genus of which social justice is one of its species. Social justice is a device to mitigate the sufferings of the poor, weak, dalits, tribals and deprived sections of the society and elevate them to the level of equality to live a life with dignity of a person. The aim of social justice is to attain substantial degree of social, economic and political equality which is the legitimate expectation and constitutional goal.

Justice is primarily a problem of moral philosophy, it has to be implemented by a political order and it also becomes a problem of political philosophy. Search for justice would be relevant only in a situation of scarcity. The quest of justice would become significant in a situation where there is a widespread demand of social advantage that are in short supply. The term justice implies the quality of being just, right reasonable and is opposed to what is unjust, wrong or unreasonable; thus asserts that the progress depends upon the development of social consciousness.

Human rights are basic, inalienable and inviolable rights and they are inherent in the individual irrespective of their castes, colour, creed, religion, sex and nationality. Human right are derived from rights. If one tries to trace the development of right they can be evolved through various theories like theory of natural rights wherein rights are considered as inborn and absolute. Another theory is legal theory which is the reaction against natural law

theory which stress upon that origin of rights lies in their recognition and protection by laws of the state.

The contribution of rich jurisprudence of human rights in ancient India cannot be denied from the beginning the idea of human rights is embodied in Hindu civilization. In Vedas and Vedanta, there is principle of truthness. The epic of Mahabhartha laid down the principle of morality, duties and rules of war fare. During Chandra Gupta Maurya's regime – Kautilya in his Artha Shashtra – which depicted the political, social and economic codes of conduct which laid down certain principles of law of punishment. These principles then became the basis of law against the illegal arrest and detention, custodial death, ill treatment of women, corrupt judicial system and illegal confinement. Then the principles of natural justice came to be applied.

The legendary king Ashoka has sown the seeds of humanitarian society. Ashoka's policy of tolerance resembles closely to the concept of civil liberties. During his administration inhuman treatment of torture of prisoners was prohibited.

Some of the Mughal rulers especially Akbar the Great adopted a policy of tolerance and non-discrimination towards Hindus and saw that no injustice is committed in his realm. Akbar went to the extent of saying that if he was guilty on an unjust act, he would rise in judgement against himself. His policy of tolerance and non-discrimination towards Hindus was followed by his son Jehangir too. He followed the justice loving tradition of his father. It is said that Jehangir improvised a system to allow easy access to all. A golden chain attached with the bell was hung on the main door of his palace in order to enable petitioners to approach him for the redressal of grievances. It was actually easily accessible individual petition system.

The inalienable, immutable and everlasting natural law found its exponents in the great saints like Ramanuja, Tulsi Dass, Kabir, Guru Nanak, Swami Ramakrishna, Swami Dayanad, Saraswati, Raja Ram Mohan Roy and others who re-interpreted the vedic dharma to re-establish the supremacy of Indian vedic values over alien ideal and philosophy. They devoted their life to serve the down trodden people of the society. By treating Hindus and Muslims alike Guru Nanak laid the foundation of secularism. By introducing sangat, pangat and langer, he transformed religion into a force of human equality, unity, fellowship, love and brotherhood.

In 1829, the practice of Sati was formerly abolished by Governor General William Bentick. The Brahma Samaj movement was started on 20th August, 1828 by Raja Ram Mohan Roy. Arya Samaj which is a Hindu reform movement was founded by Swami Dayanand in 1875. In 1929, Child Marriage Restraint Act prohibited marriage of minors which is a social evil was passed.

In 1947, India achieve political Independence from British Raj. India adopted International Human Rights Documents. After the failure of Covenant of League of Nations which was established in 10th January 1920 then after the Second World War, United Nations came into existence on 24th October 1945. U.N. consists of six organs of which General Assembly remains the main organ and look after the civil, political, economic, social and cultural rights whereas, Security Council looks after the security measures. In 1948, the Universal Declaration of Human Rights was adopted and signed by India. It is also known as Magna Carta

of Humanity. It is non binding resolution and it is now considered to be a central component of International customary law which may be invoked under appropriate circumstances by National and other Judiciaries. In 1966, United Nations General Assembly adopted a multilateral treaty i.e. International Covenant on Civil and Critical rights and came into force on March 23rd, 1976. It commits its parties to respect the civil and political rights of the individuals including right to life, freedom of speech, freedom of assembly electoral rights and rights to due process and a fair trial. India signed this covenant in 1979. Again in 1966 International covenant on economic, social and cultural rights was adopted by general assembly which commits its parties to work towards the granting of economic social and cultural rights, India also signed this covenant.

There are various provisions in the Constitution of India which are basically Human Rights i.e. Fundamental rights and Directive principles in part III and IV in the Constitution of India. With the impact of National and World wide documents, Conventions and Commissions on human rights came into existence. In 1992 Human Rights Commission Bill was introduced in India and finally bill became an Act on 8th January, 1994 which is known as Protection of Human Rights Act which constitutes National Human Rights Commission, State Human Right Commission and Human Rights Courts for better protection of Human rights and for matters connected there with.

National Human Right Commission consists of a Chairperson who has been the Chief Justice of Supreme Court and holds office for five years. There are other members in the Commission who looks after the matters concerning human rights. Similarly, under State Human Right Commission, where the Chairperson is who has been the Chief Justice of the High Court and SHRC is empowered to perform similar functions which are entrusted to National Human Right Commission. The setting up of State Human Rights Courts in every district for speedy trial of offences arising out of the violation of human rights is a novel provision.

Protection of Human Rights Act was enacted for better protection of Human rights and to prove justice against custodial torture and inhuman activities.

India has ratified some of International Conventions on human rights like:

1. International Convention on Elimination of all forms of Discrimination, 1965 which was ratified by India on 3rd December, 1968.
2. International Convention on Suppression and Punishment of Crime of Apartheid, 1973 and which was ratified by India on 22nd September, 1977.
3. Convention on the Prevention and Punishment of the Crimes of the Genocide, 1951 and which was ratified by India on 27th August, 1959.
4. Convention of Elimination of All Forms of Discrimination against Women, 1979 which was ratified by India on 9th July, 1993.
5. Convention on the Rights of the Child, 1989 which was ratified by India on 11th December, 1992.

Various provisions concerning human rights provide social security and justice in a way to ensure human dignity for a peaceful and content full life.

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