

Ambedkar's Social Justice Theory and Constitution

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Abstract: *Social justice is a word made up of two words namely "social" and the "justice" social means relating to society and justice is the equality of being just and fair to all the individuals in the group. Society is a group of men with a common organization. Justice seeks to remove the imbalance in the social, political and economic life of the people. In short social justice helps to bring about a just society. The concept of social justice is of a modern origin. The industrial revolution, the two world wars, shrinking of the world by reason of modern scientific and technological developments, adult franchise, spread of humanitarian sentiments and such other contributed to the emergence of the said concept.*

Keywords: *Social justice*

I. INTRODUCTION

Social justice is a word made up of two words namely "social" and the "justice" social means relating to society and justice is the equality of being just and fair to all the individuals in the group. Society is a group of men with a common organization. Justice seeks to remove the imbalance in the social, political and economic life of the people. In short social justice helps to bring about a just society. The concept of social justice is of a modern origin. The industrial revolution, the two world wars, shrinking of the world by reason of modern scientific and technological developments, adult franchise, spread of humanitarian sentiments and such other contributed to the emergence of the said concept. This is the protection of rights of poor, weak, destitute, women, children and other underprivileged person in the ruthless competition of life. It is the balancing wheel between have and have-nots ultimately if prevents unjust enrichment at the expense of the underprivileged.

The expression social justice and socialism are used as interchangeable term. The expression socialism may be looked at from two perspectives, one the end and the other, the means to achieve the end. In the former sense it is the removal of inequalities and establishing of a just society, in the latter sense it means the public ownership of all the means of production and distribution. Democracy accepts the first meaning and seeks to bring it about through democratic process and rule of law. While in communism the emphasis is on the second, as it believe that the new society can only be built through statism. Socialism in the first sense may be equated with the social justice. Therefore, social justice may be said to be the objective of socialism as well as of democracy. But in a democracy unlike in totalitarian forms of government, it has a richer content, for freedom and the rule of law which are integrated parts of social justice. Social justice in a democracy may be defined as justice to all the members of the society in all fields of the human activity physical, intellectual and spiritual and in all fields of human endeavors social political and economic. Moreover social justice also demands a sophisticated political and legal machinery to withstand the pressure of competing interests.

Instruments of Social Justice:-

Rule of law is an instrument of social justice originally the concept of the rule of law was only to maintain law and order. But during 17th and 18th centuries a new concept of liberty was added to it. Law had to preserve and promote liberty. During the 19th and 20th centuries it was enriched and strengthened by the inclusion of the concept and idea of equality and security respectively. It is the security from want tear and frustration. In democratic countries the rule of

law now acquired a rich content. It has become a potent instrument of social justice. These three equality, liberty and security are the values of social justice.

Another aspect of law which is an instrument of social justice is administrative law. Administrative law is a body of law which regulates and controls the multifarious activities of welfare state and enable to appointment of tribunals for discharging the duties conferred under these laws. Under our constitution welfare state means a state where there is social justice, freedom, equality, prosperity and gainful employment. The parliament makes laws to usher in the concept of welfare state. A directive principle of state policy dealt under our constitution is given to establish a welfare state. The welfare laws enable to interfere with every aspect of human activity. In turn these are appointments of innumerable authorities and tribunals to implement the welfare legislation. However if the existence of such tribunals is necessary for a welfare state, it is equally necessary that there should be effective safeguard against abuse of power, otherwise the power used arbitrarily degenerate the warfare state into a totalitarian state.

Ambedkar's Theory Of Social Justice

Dr. Ambedkar was not only an architect of the Indian constitution but also a social revolutionary. Though Babasaheb Dr. Ambedkar did not propounded any specific theory of 'social justice' but he conceptualized the principle of social justice which can be deduced from his writings and speeches and through which justice can be delivered is the society. According to Dr. Ambedkar the social justice can be dispensed in a free order in which an individual is an end in itself. It is with this aim his belief was in establishing a society where individual becomes the means of all social purposes. Therefore he had rejected village as a unit of governance and adopted the individual as its unit. According to him the Hindu Social order does not recognize the individual as a centre of social purpose. The caste system with its differential treatment stood for negation of social justice. Hindu social order is against the equal right among all communities. The touchable communities create untouchable community and were treated as inhuman. He believed that the root of untouchability is the caste system and the roots of the caste system are religion attached to varnashram system. The varnashram system is based on Brahminical religion which is an authorization of power.

Ambedkar's notions of social justice are based on social democracy which consists of three concepts of justice namely liberty, equality and fraternity. Political democracy should be a social democracy as well. Political democracy cannot survive unless there lies at the base of it social and economic democracy. Social democracy means a way of life, which recognizes liberty, equality and fraternity as the principles of life. This is fraternity which is only another name for democracy. It is essentially an attitude of respect and reverence towards fellows. It is a sense of common brotherhood of all Indians, all Indians being one people. It is the principles which give unity and solidarity to social life. So for liberty is concern it is not found in the society where caste system is prevalent because some person are compelled to carry on certain prescribed works which are not of their choice.

There are three aspects of society in which men are unequal regarding their powers. Physical heredity, Social inheritance and his own efforts. The own efforts of men will depend upon the physical heredity and only be in operation when there will be equality in regarding the other two. What would happen if men were treated unequally regarding their physical heredity and social inheritance that is parental care, education, knowledge which enable him to be more efficient? Selection under such circumstances would not be a fair selection. It would be the selection of privileged. Therefore regarding physical heredity and social inheritance, men should be treated as equally as possible.

Equality liberty and fraternity were considered to be cardinal principles of any democracy. The divorce of these from each other is to defeat the very purpose of democracy. Liberty cannot be divorced from equality; equality cannot be divorced from liberty. Nor can liberty and equality be divorced from fraternity. To enunciate the principal of justice is one thing. To make it effective is another thing. It might have been brought that the principle of equal justice would strike a death blow to the established order. Therefore whether the principle of equal justice is effective or not must depend upon the nature and character of civil service. If the service is by reason of its class bias is in favor of the established order and the enemy of new order, the new order can never come to into existence. Ultimately Dr. Ambedkar realized that the social justice can be delivered through the government machinery and through constitutional means and therefore dalits have to be part of it.

The Constitutional Scheme Of Social Justice

The Constitution of India, the supreme law of the land had twin objectives: (1) to usher in a new social order where there will be justice- political social and economic; and (2) to preserve the freedoms of the people from the onslaught of autocratic power. These two ideas run like golden thread through the entire scheme of the Constitution. Indeed, the substantive and the procedural provisions of the Constitution harmonizing the said two concepts gave a new philosophy and a new personality to the country. The philosophy of social justice is declared in sonorous terms in the preamble of the Constitution. It propounded four concepts- justice, liberty, equality and fraternity-as guidelines of the progress of the country. Indeed the four concepts are the integral parts of social justice, for justice isolated from the other three concepts will lead to injustice. The preamble is not a mere platitude but is sought to be implemented through the provisions of the Indian Constitution.

The scheme of social justice is reflected and elaborated in people by securing and protecting as effective as it may a social order in which justice, social, economic and political, shall inform all the institutions of national life. The people shall have the following judgmental rights.

- (1) Right to equality.
- (2) Right to seven freedom- freedom of speech and expression, to assemble peacefully and without arms, to form associations or unions, to move freely through-out the territory of India, to reside and settle in any part of the territory of India. To acquire, hold and dispose of property, and to practice any profession or to carry on any occupation, trade of business.
- (3) Right to life and personal liberty.
- (4) Right to freedom of religion.
- (5) Right against exploitation.
- (6) Cultural and educational rights.
- (7) Rights to constitutional remedies.

In addition, the State was directed to secure that the citizens, men and women, equally have the right to adequate means of livelihood, that the ownership and control of the material resources of the community are so distributed as best to sub serve the common good, that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment, that there is equal pay for equal work for both men and women, and the tender age of children are not abused and youth are protected against moral and material abandonment. Further, the State was directed to make effective provisions for securing to trance in cases of unemployment, old age, sickness and disablement and in other cases of undesirable want, to a living wage, to just and humane conditions of work, to decent standards of life and full enjoyment of leisure and to social and cultural opportunities, to free and compulsory education for all the children until they complete the age of fourteen years. That apart, the State was also directed generally to raise the level of nutrition and standard of living of its people and to improve public health, to organize agricultural and animal husbandry, to promote the educational and economic interests of scheduled castes, scheduled tribes and other weaker sections.

Specific provisions were also made for improving the living conditions of the backward classes, scheduled castes and tribes. Scheduled castes are the castes, races or tribes or parts of groups within castes, races or tribes, which by public notification, the President specifies them as such castes for the purpose of the Constitution. Parliament may by law exclude or include some of the said castes, etc. from the said list. Scheduled tribes are tribal communities which the President by notification declares them as such for the purpose of the Constitution. As in the case of scheduled castes, so in the case of scheduled tribes, the Parliament may include or exclude from the said list some tribes. Seats shall be reserved in the House of the people and also in the Legislative Assemblies in of the state for scheduled castes, scheduled tribes. The claims of the members of the scheduled castes, scheduled tribes and other backward classes shall be taken into consideration consistently with the efficiency of administration in the making of appointments to services and posts in connection with the affairs of the Union or the States. The President was authorized to appoint a Special Officer for the scheduled castes, scheduled tribes and other backward classes to investigate all matters relating to the safeguards provided for the scheduled castes, scheduled tribes and other backward classes under the Constitution and report to the President upon the working of those safeguards. The President may appoint a Commission consisting of

such persons as he thinks fit, to investigate the conditions of socially and educationally backward classes within the territory of India and the difficulties under which they labour and to make recommendations as to the steps that should be taken by the Union or by the States to remove such difficulties and to improve their conditions and as to the grants that should be made for the said purpose.

1. The Constitution of India, Part IV, Articles 34 to 51.

Social justice, it may be emphasized is sought to be evolved through the rule of law. The Parliament and the Legislatures make laws in respect of matters in their spheres; the executive implements the laws in terms of the Constitution; the judiciary, if any law or any executive is questioned, scrutinizes it and tests its validity in terms of the Constitution. It may even be said that the rule of law is an integral part of social justice, for what higher degree of social justice there can be other than the constitutional assurance that all people are ruled by laws and not by men and that every citizen will have the right to equal opportunity in the development of his personality. From the said scheme, it is clear that the Indian Constitution laid down the following steps to implement social justice.

1. It declares that the objective is to usher in a new social order, where there will be justice-political, social and economic.
2. It declares certain rights as fundamental rights and they are made enforceable in a court of law. They include civil, religious, political, social, economic and cultural rights.
3. It directs the State to bring about the necessary conditions for creating other rights, particularly social and economic rights.
4. The said fundamental rights and the statutory rights are interwoven into the design of social justice through the justifiable laws of social control.

The controversy ranging on the political plane viz... whether fundamental rights should give way to directive principles or vice versa, has no real basis under the said scheme.

The correlation between the two may be approached from two perspectives:

1. **The directive principles** are inchoate and potential rights and therefore the Constitution gives a command to the state to bring about the necessary conditions for evolving them as enforceable rights; and
2. **Part III** is comprised of all categories of rights-civil, political, social, economic and cultural-and the directive principles only enjoin a duty on the State to create the necessary conditions to give a practical content to the fundamental rights.

Whether the directive principle are considered to be inchoate economic and social rights, or as directions given to the State to give practical content to the fundamental rights, in either case, the State can enforce the said principles of directions through laws of social control, creating statutory rights of imposing restrictions on the fundamental rights. The said laws of social control come into conflict with the fundamental rights. Out of this conflict evolves the new social order by the process of judicial adjustment and through the rule of law. The constitution created an independent right and the permissible limits of the law, creating statutory rights on the basis of the tests of legitimate encroachment on the said rights. If the statutory rights have become crystallized and the State could guarantee their enforcement, they could be included in Part III the new list of fundamental rights in their turn becomes subject to justifiable laws of social control. By this continuous interaction of the fundamental rights and the laws of social control, through the medium of judicial process, the Constitution envisaged an organic growth of social-economic justice in a free society. This is a never ending process. The concept of social justice is an elastic one depending on time, place and circumstance. The nearer we go the further it recedes. It will always remain an ideal to be pursued.

It is, therefore, clear from an analysis of the Constitutional scheme that the criticism that fundamental rights are rich man's rights or that they obstruct the socio-economic justice, has no basis in fact. Both parts III and IV contain an integrated scheme for implementing the welfare of the people through social justice.

II. CONCLUSION

Liberty equality and fraternity should be the only alternative to abolish caste society. Without fraternity, liberty and equality could not become natural course of things. Social and economic democracies are the backbone of political

democracy. The social and economic problem of our society seeks to envisage. It should be remember that equal rights are the common possession of the entire humanity but due to the prohibitions created by the ancient Hindu social order we have been denied these human rights The Indian constitution tried to envisage the equality liberty and fraternity to create a new social order. Dr. Ambedkar rightly says that rights are protected not by law but the social and moral conscience of the society. If social conscience is rich that it is prepared to recognize the rights which law chooses to enact, rights will be safe and secure. But if the basic rights are opposed by the community, no law, no parliament, no judiciary can guarantee them in real sense of the world.

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