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Indian Constitution & Social Justice

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The Constitution of India is the supreme law of India. It lays down the framework defining fundamental political principles, establishes the structure, procedures, powers and duties of government institutions and sets out fundamental rights, directive principles and the duties of citizens. It is the longest written constitution of any sovereign country in the world. Dr.B. R. Ambedkar, the chairman of the Drafting Committee, is widely considered to be its chief architect.

It imparts constitutional supremacy and not parliamentary supremacy, as it is not created by the Parliament but, by a constituent assembly, and adopted by its people, with a declaration in its preamble. Parliament cannot override the constitution.

It was adopted by the Constituent Assembly on 26th November 1949, and came into effect on 26th January 1950. With its adoption, the Union of India became the modern and contemporary Republic of India replacing the Government of India Act, 1935 as the country's fundamental governing document. To ensure constitutional autochthony, the framers of the constitution repealed the prior Acts of the British Parliament via Article 395 of the constitution. India celebrates its coming into force on 26th January each year, as Republic Day.

It declares India a sovereign, socialist, secular, democratic republic, assuring its citizens of justice, equality, and liberty, and endeavours to promote fraternity among them.

Social justice is the spirit and vision of the Indian Constitution. It is the duty of the state to secure a social order in which the legal system of the nation promotes justice on the basis of equal opportunity and, in particular, ensures that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities. This article makes an attempt to explore Ambedkar's ideas on social justice. Thereafter, it focuses on Ambedkar's struggles and ideas on social justice in the Indian context and it finally explores

the relevance of his mission for social justice in the present times. Social and Economic Justice in Indian Constitution

In Indian Constitution, the Preamble gives vital importance to Justice for all. And justice is elaborated as social and economic justice. Social justice implies equal treatment of all the citizens of India. Provisions for human conditions of work, prohibition of discrimination in public places, removal of social barriers like untouchability etc. are all directed towards social justice.

Social justice is an important ingredient of the Indian constitution which covers not only scheduled castes and obcs but women and children also. Those who are educationally and socially backward and the oppressed class need some special protection.

In a broader sense, social justice means not only equality before law, 'equal protection of law and independence of the judiciary from the executive and the legislature, but also denotes protection of the rights of the minority groups, eradication of poverty, illiteracy, unemployment and backwardness. The modern concept of justice is 'proper and fair coordination between the interests of the individuals or groups and the broader interests of the society'.

The state can impose reasonable restrictions on the rights of the individuals for the common interest of the society. Such restrictions do not ignore the principles of justice; they rather strengthen social justice. For example, we can mention the policy of 'reservation' or 'protective discrimination' in India. In pursuance of this policy, the state has made certain special provisions for the advancement of the scheduled castes and the scheduled tribes; the Anglo-Indian community; other socially and educationally backward classes, women and children. The main objective of such discrimination is to uplift the backward communities and make them equal with the other sections of the Indian people. The above policy of reservation is not detrimental but complementary to equality. The Constitution of India is the supreme law of India. It lays down the framework defining fundamental political principles, establishes the structure, procedures, powers and duties of government institutions and sets out fundamental rights, directive principles and the duties of citizens. It is the longest written constitution of any sovereign country in the world. Dr. B. R. Ambedkar, the chairman of the Drafting Committee, is widely considered to be its chief architect.

SOCIAL JUSTICE: Social justice is a concept of fair and just relations between the individual and society. This is measured by the explicit and tacit terms for the distribution of wealth, opportunities for personal activity and social privileges. In Western as well as in older Asian cultures, the concept of social justice has often referred to the process of ensuring that individuals fulfil their societal roles and receive what was their due from society. In the current global grassroots movements for social justice, the emphasis has been on the breaking of barriers for social mobility, the creation of safety nets and economic justice.

Social justice assigns rights and duties in the institutions of society, which enables people to receive the basic benefits and burdens of cooperation. The relevant institutions often include taxation, social insurance, public health, public school, public services, labour law and regulation of markets, to ensure fair distribution of wealth, and equal opportunity.

Interpretations that relate justice to a reciprocal relationship to society are mediated by differences in cultural traditions, some of which emphasize the individual responsibility toward society and others the equilibrium between access to power and its responsible use. Hence, social justice is invoked today while reinterpreting historical figures such as Bartolomé de las Casas, in philosophical debates about differences among human beings, in efforts for gender, racial and social equality, for advocating justice for migrants, prisoners, the environment, and the physically and mentally disabled.

While the concept of social justice can be traced through the theology of Augustine of Hippo and the philosophy of Thomas Paine, the term "social justice" became used explicitly from the 1840s. A Jesuit priest named Luigi Taparelli is typically credited with coining the term, and it spread during the revolutions of 1848 with the work of Antonio Rosmini-Serbati. In the late industrial revolution, progressive American legal scholars began to use the term more, particularly Louis Brandeis and Roscoe Pound. From the early 20th century it was also embedded in international law and institutions; the preamble to establish the International Labour Organization recalled that "universal and lasting peace can be established only if it is based upon social justice." In the later 20th century, social justice was made central to the philosophy of the social contract, primarily by John Rawls in *A Theory of Justice* (1971). In 1993, the Vienna Declaration and Programme of Action treats social justice as a purpose of human rights education.

Social Justice and Indian Constitution: Social justice has been given a place of pride in our Constitution. The Scope of social justice in our constitution can be explain with following points

1. Social Justice and Preamble of the constitution of India
2. Social Justice and Fundamental rights of the citizen of India
3. Social Justice and directive principles of state policy
4. Special provisions for backward classes of society

1) Social Justice and Preamble of the constitution of India: The preamble of Indian Constitution professes to secure to the citizens social, economic and political justice. Social justice means the abolition of all sorts of inequities which may result from the inequalities of wealth, opportunity, status, race, religions, caste, title and the like. To achieve this ideal of social justice, the constitution lays down the Directives for the state in part fourth of the constitution.

2) Social Justice and Fundamental rights of the citizen of India: Fundamental rights in Part III some of which are available to all persons and some are enjoyable only by the citizens of India are:-

- a. Equality before law (Art 14)
- b. Prohibition of discrimination on ground of religion, race, caste, sex or place of birth (Art 15)
- c. Equality of opportunity in matters of public employment (Art 16)
- d. Abolition of Untouchability (Art 17)
- e. Abolition of titles (Art 18)
- f. Protection of certain rights regarding freedom of speech etc. (Art 19)
- g. Protection of life and personal liberty (Art 21)
- h. Protection in respect of conviction for offenses (Art 20)
- i. Protection against arrest and detention in certain cases (Art 22)
- j. Protection of traffic in human beings and forced labour (Art - 23)
- k. Prohibition of employment of children in factories or mines or in any other hazardous employment (Art 24)
- l. Freedom of Religion (Art 25 - 28)
- m. Protection of interests of minorities (Art 29-30)

n. Judicial remedies for enforcement of rights conferred by this Part - III of the Constitution (Art 32).

3) Social Justice and directive principles of state policy : Chapter IV of Indian Constitution Article 36 to 51 incorporate certain directive principles of State policy which the State must keep in view while governing the nation. The most important of these directives are -

- a) Promotion of welfare of the people (Art 38)
- b) Adequate means of livelihood; equal distribution of material resources of the community; distribution of means of production to the common good and equal pay for equal work; - promotion of health and strength of workers, men and women and the children : Protection against exploitation of childhood and youth (Art 39)
- c) Equal justice and free legal aid (Art 39A)
- d) Right to work, education and to public assistance in certain cases (Art 41)
- e) Just and human conditions of work and maternity relief (Art 43)
- f) Living wages for workers (Art 44)
- g) Uniform civil code (Art 44)
- h) Free and compulsory primary education for children (Art 45)

"The principles of Policy set forth in this part are intended for the guidance of the State.

While these principles shall not be cognizable by any Court they are nevertheless fundamental in the governance of the country and their application in the making of law shall be the duty of the State.

4) Special provisions for backward classes of society"

By incorporating the system of special provision for backward classes of society, it is to try to make the principle of equality more effective. The State, according to Article 15(1) of the Constitution, "shall not discriminate against any citizen on grounds only of religion, race, caste, sex, and place of birth or any of them." Under Article 15(4) the state shall make any special provision for the advancement of any socially and educationally backward classes of citizen or for the scheduled castes, and the Scheduled tribes and in the same manner by accepting the opportunity of equality to employment under state in Article 16 (1), it has excepted the principle of equalization under Article 16(4). If it is in the opinion of the state

that any class of the citizens has not adequately representation under state employment, state shall make any provision for the reservation of appointments. According to Art 46 the State shall promote with special care the educational and economic interests of weaker sections of the people, and in particular, of the scheduled castes and the scheduled tribes, and shall protect them from social injustice and all forms of exploitation. In a very important case of *Indira Sawhney vs. Union of India* the Supreme Court declared twenty seven percent reservations legal for socially and economically backward classes of the society under central services. Social justice is a dynamic device to mitigate the sufferings of the poor, weak, dalits, tribals and deprived sections of the society.

State to secure a social order for the promotion of welfare of the people Article 38 has been a keystone of the Directive Principles. This article is a directive to the State to give effect to the objectives expressed in the Preamble to the Constitution, by securing a social order for the promotion of the welfare of the people. Article 38 stipulates as under:-

- (1) The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life.
- (2) The State shall, in particular, strive to minimize the inequalities in income, and endeavour to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocation.

Conclusion:

In India, courts have performed a great role to make the social justice successful. In the field of distributive justice, legislature and judiciary both are playing great role but courts are playing more powerful role to deliver compensatory or corrective justice but these principles are known as mutually relatives not mutually opposites. Ideals and goals are to deliver social justice. Medium may be distributive or compensatory justice. The adopted type may be of quality, Necessity, Equality, Freedom, Common interest or other.

Although the Supreme Court has not found any possible definition of Social Justice but has accepted it as an essential and an organ of legal system. Despite the well intentioned commitment of ensuring social justice through equalization or protective discrimination policy, the governmental efforts have caused some tension in the society. In the name of

social justice even such activities are performed which have nothing to do with social justice. The need of hour is to ensure the proper and balanced implementation of policies so as to make social justice an effective vehicle of social

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