

Research Paper

SOCIAL JUSTICE AND HUMAN RIGHTS**Dr.P.RAMAR**Assistant Professor, Department of History,
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People rights are the basis of human rights do not represent the rights of the individual as western ideologists believe. They belong to a collective of individuals which make up peoples of nations and cannot be realized solely by an individual. In the process of realizing people's rights, enjoying his rights and freedoms (Freedom of speech, of the press of assembly the right to participate in elections etc.

Express his attitude to one issue or another. The opinion of the majority, expressed in such a way, thus reflects the will of the whole peoples the negation and violation of people's rights inevitably leads to wholesale and gross violation of the rights and freedoms of every person. In recent years, social development programmes have become a component part of the overall national development plans in many newly-independent countries. Increased attention is being paid to questions of fair pay, decent working conditions and safety standards. However, in a number of countries the poorest sectors of the population have gained no benefits from the growth of the economy and the situation among some of them has even become worse.

Human Rights are those rights which inhere in every human being by virtue of being a member of human family. In a sense the expression is the modern name of what had been traditionally known as "national rights", rights bestowed upon human beings by name. "Human Rights" are based on mankind's increasing demand for a decent civilized life in which the inherent dignity of each human being is well-respected and protected.

Ambedkar Perception of Justice

B.R.Ambedkar and justice have become synonymous. His name finds a very honoured and prominent place in the pantheon of the most illustrious builders of Modern India from Justice the core of his social and political thought liberal democracy, constitutionalism, socialism social-political modernization and steady progress through planning under the aegis of the state also constitute the most important ingredients of his social and political throughout. Ambedkar may not be an abstract thinker in the sense of Plato, Aristotle, Hegel, Karl Marx and J.S.Mill. But as a seasoned leader, indefatigable fighter for justice and statesman of public affairs his contribution to social, political and constitutional thought is of no mean order.

The Status of Economic and Social Rights

A number of philosophers and a great many contemporary conservatives and libertarians have argued that economic and social rights are not really human rights, suggesting that the conventional dichotomy reflects not only the genesis of contemporary human rights norms but also an order of

priority between these rights. Maurice Cranston offers the most widely cited version of the philosophical argument against economic and social rights. He argues that traditional Civil and Political rights to life, liberty and property are "Universal, Paramount, categorical moral rights" Economic Social Rights, however are neither universal practical nor of paramount importance and "belong to a different logical category" that is they are not truly human rights.

Cranston notes that many economic and social rights refer directly to a particular class of people, not to all human beings civil and political rights also fail such a test of universality. For example, only citizens who have attained a certain age and completed any necessary formalities of registration have the right to vote. These rights – whether civil, political economic, social or cultural – are universal in the sense that they refer to anyone who should be in that class and in the sense that the class is potentially open to all human beings, rather than defined by achievement or ascription.

Through there is a general misgiving that it is new concept evolved to meet newer challenges to dignity and honour of individuals, it is not a recent development. At least 2500 years back Sophocles wrote about them when antigone declaration came to the effect that there were ethical laws higher than the laws of the Theban Kings. P.C.Chang had pointed out when the universal declaration was being drafted that Confucius had anticipated them in ancient China.

In the United Nations' Charter the Central theme revolve round the seven provisions relating to Human Rights. It appears U.Thant described it as the Magna Carta of mankind. Human Rights are fundamental to our very existence without which we cannot live as human beings. The basic Human Rights constitute what might be called "sacrosanct rights" from which non derogation can be permitted in a civilized society. The bare necessities, the minimum and basic requirements which are essential and unavoidable for a person are the core for Human Rights concept. Human Rights are universal and cut across all national boundaries and political frontiers.

Section 2(d) of the Protection of Human Rights act, 1993,

lays down:

“Human Rights” means the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India;”

In Nilabati Behera V.State of Orissa, 1993 (2) SCC 746 the Supreme Court while considering the question of grant of relief in a case of custodial death of the son of the petitioner opined that the old doctrine of only relegating the aggrieved to the remedies available in civil law limits the role of the courts too much as the “protector of the indefeasible human rights of the citizens” and went on to say that the courts have an obligation to satisfy the social aspirations of the citizens because the courts and the law are for the people and expected to respond to their aspirations. The Court, therefore, in that case moulded the relief by granting compensation by way of penalizing the wrongdoer and fixing the liability for the public wrong on the State which failed in its public duty to protect human rights of the citizen. It was stressed that a public body or officials should not act unlawfully and should perform their public duties in accordance with law. This was done by the Court in exercise of its public law and said “that the purpose of public law is not only to civilize public power” but also to the citizen that they live under the legal system which aims to protect and preserve the rule of law. Thus, new “tools” were invented to give redress to the citizen.

The concept of social justice is primarily based on the idea that all men are equal in society without distinction of religion, race, caste, colour or creed. It also means the absence of privileged class in the society. Justice Gajendra Gadkar said “The concept of social justice takes within its sweep the object of removing all inequalities and affording equal opportunities to all citizens in a social affairs as well as economic affairs.” (Law liberty and social justice).

Justice V.R.Kishna Iyer said “The maximization of the collective resources of the community, natural, human and their equal distribution.” It is not easy to define principles of social justice. In Mldir Mills Ltd. V.Satim Mill Mazdoor Union Justice P.N.Bhagwati described “social justice is very vague and indeterminate expression and added whatever it meant, the concept of social justice does not inmate forceful notions of any adjudicator but must have a more solid foundation.” On the other hand, chief justice Chagla reported the submission that the court should not import its own idea of social justice in interpreting the law or statute (Prakash Cotton Mills V.State of Bombay). This decision of Bombay High Court was reversed by Supreme Court in case of Rakesh Cotton Mill V.State of Bombay. It was observed “It is sure that the social justice is the objective and although it is difficult to define but in the words of Justice Holmes “An inarticulate measure premise which was present and individual to every court and every judge depending on the outlook of life, society and judges. Laws cannot be interpreted without reference to social justice. Both judges were agreed that social justice is hard to define.” But Allen described “we hear much today about social justice. I am not sure that who use the word most legibly know clearly what they mean by it. Some mean distribution and redistribution of wealth. Some interpreted as equality of opportunity misleading form. Such opportunity cannot be equal among human beings who have unequal capacity to grasp it. Many suspect simply that it is unjust anybody should be more

fortunate themselves and the more intellectual mean that it is just I could rather say benevolent that every effort should be made at least to mitigate the disparities of natural human inequalities and that no obstacles should be offered but rather help afforded to practice of self improvement.”

It is the rule of land and rule of life which run close together. A jurisprudence where man matter will burgeon there, the springs of social justice will rise then only then. The constitution inscribed justice at the first promise of the republic, which means that state power will execute the pledge of justice in favour of the millions who are the republic. Social justice is people's justice where the Tyranny of power is transformed into the democracy of social good.

The Supreme Court in C.E.S.C. Ltd. V.S.C.Bose, AIR 1992 SC 573 held that right to social justice is a fundamental right. Similarly, in Consumer Education and Research Centre V.Union of India, AIR 1995 SC 922 it was held that the right to social justice to the worker is a fundamental right to live with dignity. What was stated in Olga Tellis V.Bombay Municipal Corporation, AIR 1986 SC 180 by a Constitution Bench is in essence re-iteration of the Universal Declaration of Human Rights about human dignity? It was held that right to life as stated in Article 21 of the Constitution is not mere animal existence but it includes means to livelihood which was elaborated later with all the essential needs to live with dignity.

NOTES AND REFERENCES

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