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**CONSTITUTION, JUDICIARY AND SOCIAL JUSTICE IN INDIA**

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Social justice is concerned with ensuring liberty, providing equality and maintaining, individual rights for every human being in society. We can say that securing the highest possible development of the capabilities of all members of the society is called social justice. Being a multi-dimensional concept, social justice have been viewed by scholars of philosophy, political science and law differently. According to Dias, “Justice is not something which can be captured in a formula once and for all; it is a process, complex and shifting balance between many factors.” Mainly Social justice aims at the just allocation of advantages and disadvantages, preventing the abuse of power, preventing the abuse of liberty, just decision of disputes and bringing a balance between social rights and social controls. Ambedkar’s view for a social system that is based on right relations between man and man in all spheres of his life. As a rationalist and humanist, he did not approve of any type of hypocrisy, injustice and exploitation of man by man in the name of religion. For him religion should be based on universal principles of morality. Ambedkar stood for a social system in which man’s status is based on his merit and achievements and where no one is noble or untouchable because of his/her birth. He advocated the policy of preferential treatment for the socially oppressed and economically exploited people of the country. The Constitution of India, which was drafted under his chairmanship, contains a number of provisions that enjoins the state to secure to all its citizens, justice, social, economic and political, along with liberty, equality and fraternity. It also contains a number of provisions that guarantee a preferential treatment to the downtrodden people in various sectors.

Although Social Justice is not defined anywhere in the Costitution but it is the foundation stone of Indian Constitution. Under Indian Constitution the use of social justice is accepted in wider sense which includes social and economical justice both. Chief Justice Gajendergadkar said, “In this sense social justice holds the aims of equal opportunity to every citizen in the matter of social & economical activities and to prevent inequalities”. Under Constitution of India it is promised to all its citizens justices- social, economic and political; liberty of thought expression, belief, faith and worship equality of status and of opportunity and to promote among the all fraternity assuring the dignity of the individual and the unity of the Nation.

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of the Constitution promote social justice so that life of every individual becomes meaningful and he is able to live with human dignity. The concept of social justice engrafted in the Constitution consists of diverse principles essentially for the orderly growth and development of personality of every citizen. Social justice is thus 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 dynamic devise to mitigate the sufferings of the poor, weak, dalits, tribals and deprived sections of the society and to elevate them to the level of equality to live life with dignity of person. In other words, the aim of social justice is to attain substantial degree of social, economic and political equality, which is the legitimate expectation of every section of the society.

### *Constitution and Social Justice*

The preamble itself says: "We, the people of India, having solemnly resolved to constitute India into a sovereign, socialist and democratic Republic and to secure to all its citizens—Justice, social, economic and political...." Clearly, social justice in all its forms and to all citizens was regarded as fundamental to the set-up which our founding fathers prescribed for the country; it is mentioned on top of the other equally sound concepts. The words, "Socialist", "secular", "democratic" and "republic" have been inserted in the preamble. Which reflects it's from as a "social welfare state." The term 'justice' in the Preamble embraces three distinct forms- social, economic and political, secured through various provisions of Fundamental Rights and Directive Principles.

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).

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 child hood 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 laws shall be the duty of the State.”

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*Judicial Approach Regarding Social Justice*

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The role of judiciary is to achieve the dream of social Justice in the preamble of the constitution of India. Because the apex court has explained the Idea of Social Justice Consist of diverse principles essential for the orderly 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 dynamic device to mitigate the sufferings of the poor, weak, Dalits, tribal, and deprived sections of the society and so elevate them to the level of the equality to live a life with dignity of person. Social Justice is not a simple or single goal of a society but is an essential part of complex social change to relieve the poor from handicaps, Penury, toward off distress and to make their life livable, for greater good of the society at large. The aim of social Justice is to attain substantial degree of social, economic and Political equality which is the legitimate expectation and constitutional. The concept of social Justice thus takes within it sweep the objective of removing all inequalities and affording equal opportunities to all citizens in social affairs as well economic activities.

In India, courts have performed a great role to make the Social justice successful. It has given a principal and dynamic shape to the concept of social justice. Social justice has been guiding force of the judicial pronouncements. As has been observed by the Supreme Court Social Justice, Equality and dignity of person are cornerstones of social democracy. Social justice concerns with the distribution of benefits and burdens throughout the society entitling every member of the society to enjoy the same level of well being as every other. Supreme Court Defined 'Social Justice' in **Air India Statutory Corpn. v. United Labour Union, AIR 1997 SC at 669** as, "the concept of social justice which the constitution of India engrafted, consists of diverse principles essential for the orderly growth and development of personality of every citizen. Social Justice is thus 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 dynamic device to mitigate the sufferings of the poor, weak, dalits, tribals and deprived sections of the society....." In the case of **S.R. Bommai v Union of India, AIR 1994 SC 1918** court held that Social Justice and Judicial Review is the basic feature of the Constitution of India. Democratic socialism aims to end poverty, ignorance, disease and inequality of opportunity. Socialistic concepts of society should be implemented in the true spirit of the Constitution. "Establishment of the egalitarian social order through rule of law is the basic structure of the Article 15(4) and Art. 16(4) Constitution of India 1950. The court has laid emphasis on social justice so as to attain substantial degree of social, economic and political equality. Another idea propounded by the court is that socialism means distributive justice so as to bring about the distribution of material resources of the community so as to subserve the common

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good. In **D. S. Nakara v. Union of India (1983) 1 SCC 305**, the Supreme Court has held that the principal aim of a socialist state is to eliminate inequality in income, status and standards of life. The basic frame work of socialism is to provide a proper standard of life to the people, especially, security from cradle to grave. Amongst there, it envisaged economic equality and equitable distribution of income. This is a blend of Marxism & Gandhism, leaning heavily on Gandhian socialism. From a wholly feudal exploited slave society to a vibrant, throbbing socialist welfare society reveals a long march, but, during this journey, every state action, whenever taken, must be so directed and interpreted so as to take the society one step towards the goal. The aim of social justice is to attain a substantial degree of social, economic and political equality. In **Consumer Education & Research Centre v/s Union of India (1995)** it was held that "Social justice is a device to ensure life to be meaningful and livable with human dignity. State has to provide facilities to reach minimum standard of health, economic security and civilized living to the workmen. Social justice is a means to ensure life to be meaningful and livable."

### ***Conclusion***

In spite of the tremendous progress in almost all of the area especially in economy, science and technology, infrastructure development, the gap between poor and rich is being increased day by day. 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. "In keeping silent about evil, in burying it so deep within us that no sign of it appears on the surface, we are implanting it, and it will rise up a thousand fold in the future. When we neither punish nor reproach evil doers, we are not simply protecting their trivial old age, we are thereby ripping the foundation of Justice from beneath new generations."

Though there is a remarkable progress in the economy, science and technology, infrastructure development but the gap between the rich and poor is widening day by day. The socially excluded sections of the poor are systematically left behind from their countries' progress. Their excluded status is the product of multiple and intersecting inequalities. Though various initiatives have been taken by the government to achieve the target even though some of the targets are far from to achieve and still comprehensive programmes and policies are required to achieve these targets. The constitution should be interpreted in such a manner to make it a living document in order to fulfill the aspirations of the people. The judiciary has played a great role in updating the constitution through its positive interpretation. It is the collective effort of all the organs of government which lead the social justice to all the citizens. The need of hour is to ensure the

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proper and balanced implementation of policies so as to make social justice an effective vehicle of social progress. 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 the hour is to ensure the proper and balanced implementations of policies so as to make social justice an effective vehicle of social progress.

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