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# SOCIAL JUSTICE

-Meghna Bisht and Shivangi Waghey

## ABSTRACT

Social justice has always been a fundamental element of the Indian economy and constitution-making process. With the intention to revive the idea of justice in India, we needed a potential economic system and the adoption of mixed economic policy emerged as its consequential effect. The concept of Social and Economic Justice involves Distributive Justice, which aims to remove economic inequalities and rectify injustices resulting from transactions between unequal members of society. After Independence, constitution makers gave perspicacious observations to formulate an economic policy that would cover the lacunas of capitalist and socialist economies. The Constitution of India has solemnly promised to all its citizens justices-social, economic, and political, equality of status and opportunity, liberty of thought expression, belief, faith, and worship, and to promote among all fraternity assuring the dignity of the individual and the unity of the nation in three parts: Preamble, Fundamental Rights, and Directive Principles. Our Indian constitution confers various provisions for SC and ST, and a specific act i.e. The Schedule Castes and the Schedule Tribes (Prevention of Atrocities) Act, 1989 provides protection to them. Section 15A of the aforementioned act contains important provisions that safeguard the rights of the victims of caste-based atrocities and witnesses. The court emphasized that Section 15A(10) of the act explicitly requires video recording of all proceedings relating to offenses under this act. Father of social justice Dr. B.R. Ambedkar had put accentuated efforts in formulating laws for Dalits and other marginalized sections of society. Our lawmakers have recently come up with the “Women Reservation Act, 2023” which opens the doors to opportunities to enhance the status of women in the legislative sphere by reserving one-third of all seats for women in Lok Sabha so that social justice can be attained. ‘Justice is the genus, of which social and economic justices are the species’. This statement describes the various dimensions of justice where people can live their lives with dignity and security. Just and humane work conditions for citizens without any dogmatic environment and exploitation. Liberty, equality, and fraternity must be ensured for the purpose of achieving social justice.

*Keywords- Social justice, mixed economy, women reservation act, distributive justice, DPSP, SC and ST(Prevention of Atrocities)Act, Kesavananda Bharti case*

## **INTRODUCTION**

“If all men are equal, all men are of the same essence and the common essence entitles them to be same fundamental rights and to equal liberty”, well quoted by Dr. B.R. Ambedkar in 1987. This quotation essentially covers the entire concept of ‘Social Justice’ as social justice is an essential element of a democratic country where minorities and deprived sections of the society are not ignored but have always been shielded by Constitutional provisions. After independence, a potential economic system was the fundamental need of the newly independent India as the exploitation performed by the Britishers adversely affected the roots of the Indian economic system. To rejuvenate the spirit of social justice in India, we needed an economy that would benefit the marginalized section. Still, we simultaneously must not snatch opportunities from the rich class as well. So our constitution makers decided to opt for a balanced economy where rich as well as marginalized sections can enjoy the fruits of economic development hence the idea of a mixed economy was introduced in India where the public and private sectors coexist. The concept of social justice primarily includes distributive justice, out of Article 46 of the Indian constitution the Supreme Court has developed the concept of distributive justice because of this article an Act made to protect and preserve the economic interest of persons belonging to the SC and ST and to prevent their exploitation would not infringe article 14. Distributive Justice is a concept that addresses the ownership of goods in a society as it demands a large amount of fairness in the distribution of goods and the just allocation of resources and opportunities in a society. Distributive Justice ensures the distribution of external goods according to worth and specifically according to virtue. The Constitution of India has solemnly promised to all its citizens social, economic, and political justice, equality of status and opportunity, liberty of thought and expression, belief, faith, and worship. It assures to guard the dignity of the individual and the unity of the nation in three parts- preamble, Fundamental Rights, and DPSP where the preamble is a reflection of the core constitutional values that embody the constitution. It declares India to be a sovereign, socialist, secular, democratic, republic committed to justice, equality, and liberty for the people. Fraternity assures the dignity of the individual and the unity and integrity of the nation, it is only possible by erasing the disparities between the elite class and the marginalized section of society. Fundamental Rights which are mentioned in Part III of the Indian Constitution equally contribute to achieving social justice as it defends and respects the rights of the entire society regardless of the factor

someone is poor or rich. It provides a specific shield to the marginalized section as justice is rendered to every citizen of India ignoring the fact of how powerful or how actively they are involved in the political realm. This domain of Fundamental Rights primarily forms a golden triangle including Article 14 (Right to Equality), Article 19(Right to Freedom) and Article 21 (Right to Life and Liberty). Other than this in part IV of the Indian Constitution, articles 36-51 contain the Directive Principles of State Policy(DPSP). (UNIVERSAL'S, 2023)

It enunciates such principles in the Constitution that have been borrowed from the Irish Constitution. DPSP were more akin to moral, rather than legal as they do not hold much value from a legal point of view, these principles are not justiciable but fundamental in the governance of the country and impose a duty on the State to apply these principles in making laws. Its measures reflect certain objectives, including maintaining economic, social, and political justice in the affairs of the State. The SC and ST (Prevention of Atrocities) Act, 1989 (UNIVERSAL'S, 2023) is an act to prevent the commission of offenses of atrocities against the members of the scheduled castes and scheduled tribes, to provide for Special Courts for the trial of such offenses and the relief and rehabilitation of the victims of such offenses and matters connected in addition to that or incidental to it. DR. B.R. Ambedkar being a crusader of social justice advocated a social system based on equalization in society among individuals in all spheres of life. He argued that social justice alone could lead to social harmony, social stability, and patriotic feelings for all individuals in society. Our legislators have come up with an amazing opportunity for women to enhance their position in the legislative sphere by enacting 'Women Reservation Act 2023' (PRS LEGISLATIVE RESEARCH, n.d.) where one-third of all seats are for women in Lok Sabha spreading the essence of social justice. In the seats reserved for SCs/STs, the act seeks to provide 1/3 of the seats to be reserved for women on a rotational basis. The act introduces Article 332A which mandates the reservation of seats for women in every state legislative assembly. The doctrine of Basic Structure holds a significant place in the Indian Constitution as it was propounded in the Kesavananda Bharti case ( Kesavananda Bharti vs. State of Kerala, 1973) where the Supreme Court of India held that the Parliament of India does have the power to amend the Constitution but not to abrogate the Basic Structure of the Indian Constitution even by constitutional amendment as 'Basic Structure' Doctrine has been interpreted to include the supremacy of the Constitution. Hence in order to render social justice collective efforts are required by the State and citizens as well and with the intention to understand the entire domain and aspects of social justice, let's dig into the background of social justice.

## **BACKGROUND**

SOCIAL JUSTICE has always been a crucial achievement to attain in order to enhance the social development of a country. Social justice and its idea has evolved since 19th century during the Industrial Revolution as attempts were made to protect the dignity and rights of oppressed and suppressed sections of the society who had fallen prey to cruel "King and Noble Classes" as the peasants were appalled due to the financial crisis they were going through because they were being exploited by the stronger sections of the society. During the Industrial Revolution, peasants were the financially and socially weaker sections who were even deprived of basic facilities. Subsequent civil revolutions throughout Europe advocating stratifications also enhanced the presence of social justice ideology. Ancient Greek philosopher Aristotle who is considered the father of philosophy also contributed to the welfare of socially deprived and marginalized sections of society unlike others he had distinctive perspectives on social justice as he divided the society as per their qualifications and contributions in the military and political sphere. Over the period of time various philosophers like Plato, Socrates and John Rawls propounded the concept of social justice for the welfare of marginalized sections. Gradually after Independence Indian social reformers and eminent politicians decided to enshrine the core concept of social justice in the Indian Constitution where the preamble, provisions and statutes reflect the beginning of well-being and well-fortification of the marginalized sections in India. (Shukla, 2014)

## **DR. BHIM RAO AMBEDKAR: CRUSADER FOR SOCIAL JUSTICE**

Dr. B.R. Ambedkar considered Social Justice a carrier to create an egalitarian society where the weaker section is not dominated by the stronger section of the society and distribution of the resources is equal among all the sections of the society. To him, a just society is a casteless society that embodies three essential principles: liberty, equality, and fraternity. Ambedkar's egalitarian society is surrounded by two crucial principles. The very first principle states that the individual is an end in himself and the central idea of society is about the grooming and growth of the individual while developing his personality. Society is for individuals yet it can't hold more significance than individuals but if the individual falls in a situation where society needs him then it must confine to an extent where his betterment is preferred and his exploitation is completely avoided. The second principle states that the existing association of life between members of society must fall within the ambit of liberty,

equality and fraternity. The crux of these two essential principles reflects the weight of justice in society, for the purpose of detecting right and wrong in society a society must embody justice as a core element. The essence of fraternity played an important role for Ambedkar as he always wanted a society with sentiments of fellow feeling where a person is not antisocial and always ready to help others and must not think why should I do right to them. It consists of a sentiment that paves the way for an individual to identify himself with the good of others. This sentiment of fraternity must be inculcated into the heart and soul of the individual where empathy exists among individuals so that they can nurture a society that is based on the principles of liberty, equality, fraternity and casteless society. He emphasized more on emotional integration as he wanted to remove man-made inequalities of all shades through law, morality and public conscience. According to him the root cause of social injustice to the Scheduled Tribes and Scheduled Castes was the caste system in the Hindu society. The aim of Ambedkar's Social Justice is to remove inequalities based on sex, race, caste, power, position and wealth. Social Justice must bring equal distribution of socio and political and economic resources and rights to all individuals. His idea of Social Justice also included unity and equality of all human beings, equal worth of men and women, respect for the weak and lowly, regard for Human Rights, benevolence, mutual love, sympathy, tolerance and charity towards fellow beings, abolition of caste distinctions, education and property for all and goodwill and gentleness. (Shukla, 2014) Ambedkar was fully aware of the pattern and problems of Indian society hence he had put accentuated efforts to enhance and uplift the conditions of all the marginalized sections facing oppression and discrimination even the Supreme Court judge Justice B.R. Gavai on 15.04.24 lauded the architect of the Indian Constitution, Dr. B.R. Ambedkar, for enabling those from the marginalized communities to find their voice and make a mark in the society. (Roy, 2024) Dr. B.R. Ambedkar's core principles of liberty, equality, and fraternity acted as a sword to social evils.

## **PROMULGATION OF CONSTITUTION: PRIVILEGES FOR MARGINALIZED GROUPS**

The marginalized group in India consists of the Scheduled Tribes and Scheduled Tribes, women, children, religious minorities, sexual minorities, elderly and disabled people. All these people have been historically disempowered, oppressed and were considered powerless. The Constitution of India serves as a safeguard and provides rights to such groups within the society. The framers of the Constitution took into account the dire situation of the marginalized class and created articles to empower them. Not only do these articles exist, but the preamble of the Constitution also mentions

social, economic and political justice; liberty of thought, expression, belief, faith, and worship; equality of status and opportunity and to promote among them all fraternity, assuring the dignity of the individual and the unity of the Nation. The notion of social justice is a core and integral part of the Indian constitution and it's presumed to be the basic structure of the Indian constitution which cannot go through the process of amendments or breaches the Doctrine of Basic Structure propounded in Kesavananda Bharti Case. ( Kesavananda Bharti vs. State of Kerala, 1973)

The Indian Constitution also grants people fundamental rights that give them freedom and equality. Articles 14 to 18 discuss the right to equality. Article 14 states that the State shall not deny any person equality before the law or equal protection of the laws within the territory of India. Article 15 of the Indian Constitution prohibits discrimination based on religion, race, caste, sex, place of birth, or any of them. The State can make special provisions for women, children, socially and educationally backward classes, Scheduled Castes, Scheduled Tribes, and economically weaker sections of citizens in terms of their admission to educational institutions, except for minority educational institutions. Such special provisions would be in addition to the existing reservations and subject to a maximum of ten percent of the total seats in each category.

Article 16 of the Indian Constitution establishes equality of opportunity for all citizens in matters of public employment. No citizen can be discriminated on the basis of religion, race, caste, sex, descent, place of birth, or residence. Parliament may prescribe requirements for certain classes of employment. The State can reserve appointments or posts in favor of any backward class of citizens. The State can also reserve promotions for Scheduled Castes and Scheduled Tribes. The article does not affect the operation of any law requiring a particular religion or denomination for an office in connection with a religious institution. The State can make provisions for the reservation of appointments or posts for economically weaker sections.

Articles 17 and 18 enunciate the abolition of untouchability and the abolition of titles respectively. Articles 19 to 22 give the Right to freedom. Article 25 allows individuals to freely profess, practice, and propagate any religion, subject to public order, morality, and health. Article 26 allows every religious denomination to establish institutions for religious and charitable purposes, manage its affairs, and administer property in accordance with the law. Article 27 prohibits compelling individuals to pay taxes that promote any particular religion. Article 28 prohibits religious instruction in any educational institution wholly maintained out of State funds and ensures individuals' right to refuse religious instruction or worship without consent. The Indian Constitution has special provisions to uplift minorities who have been facing discrimination. Articles 29 and 30 outline these provisions and

grant minorities the right to preserve their languages, scripts, and cultures. They also have the right to establish and manage their own educational institutions without any discrimination. The state is obligated to ensure that any compulsory acquisition of property belonging to any educational institution established and administered by a minority is fair and does not violate their rights.

Providing rights was not sufficient as it could be curtailed so Article 32 was also added which provides Judicial remedies for the enforcement of rights conferred by this Part - III of the Indian Constitution. Article 244 in part X of the Indian Constitution also provides specific provisions for the administration of scheduled areas and tribal areas in any state other than the State of Assam, Meghalaya, Tripura, Mizoram, and in Article 244(2) the provisions of the Sixth Schedule shall apply to the administration of the tribal areas in the states of Assam, Meghalaya, Tripura and Mizoram.

Moreover, it is not only the preamble and Fundamental Rights which talk about social justice and the Rights of marginalized people but the Constitution's Directive Principles of State Policy (Articles 39-50) also emphasize the importance of social justice and the rights of marginalized individuals. These principles guide the State in pursuing social and economic justice by promoting welfare, ensuring livelihood, providing equal pay for equal work, protecting workers' health, safeguarding children, offering free legal aid, ensuring the right to work, education, and public assistance, providing just conditions of work, living wages for workers, establishing a uniform civil code, and Article 45 is offering free and compulsory primary education for children. (UNIVERSAL'S, 2023)

Provisions were made to include all the sections of society and to provide protection to the marginalized groups making the Indian constitution the guardian of the rights of marginalized people. In the case of (State of Bihar vs. Kameshwar Singh , 1952) AIR 1952 SC 252 the court held that the goal set by Article 38 of the Indian Constitution is to establish a state that constantly strives to promote the welfare of its people by securing social, economic, and political justice throughout all of its institutions.

Similarly, in the case of (Air India Statutory Corp. Vs. United Labour Union, 1997) AIR 1997 SC 654 the court observed that the Preamble and Article 38 of the Constitution envision social justice as a means to ensure that life is meaningful and livable with human dignity.

## **AFFIRMATIVE ACTIONS OF THE STATE FOR THE MARGINALIZED CLASS**

The drafting committee while formulating the Constitution added several provisions for the welfare of the marginalized class but they were not sufficient to uplift those classes from the misery they had

suffered over the period. So to elevate the position of those classes in society the existing governments formulated various strategic schemes and reservation policies over time.

- Pradhan Mantri Anusuchit Jaati Abhuyday Yojana (Press Information Bureau, 2023): It is a merged scheme of three Centrally Sponsored Schemes which are Pradhan Mantri Adarsh Gram Yojana (PMAGY), Special Central Assistance to Scheduled Castes Sub Plan (SCA to SCSP), and Babu Jagjivan Ram Chhatrawas Yojana (BJRCY). It aims to generate additional employment opportunities through skill development, income-generating schemes to reduce poverty in the SC communities and also aims to develop the SC-dominated villages into an “Adarsh Gram” by providing adequate infrastructure and requisite services in those villages.
- Atal Vayo Abhyuday Yojna (Press Information Bureau , 2023): This scheme recognizes the invaluable contribution made by the elderly to society and aims to empower and uplift them to ensure their well-being and social inclusion. This scheme provides financial assistance to eligible organizations to run and maintain homes for senior citizens.
- Pradhan Mantri Jan Arogya Yojana (national health authority, n.d.): This health insurance scheme provides coverage to economically weaker families, SC and ST, and other vulnerable families.
- Pradhan Mantri Vidya Lakshmi Karyakram (National Portal of India, n.d.): This scheme offers to provide Scholarships as well as Educational Loans to poor and middle-class students so that they are able to pursue the higher education of their choice without any constraint of financial resources.
- Stand Up India (Press Information Bureau, 2021): This scheme aims to provide loans and support to women entrepreneurs, SC/ST. In order to encourage them to set up businesses and achieve financial independence.
- Beti Bachao, Beti Padhao (Ministry of Women and Child Development, 2023): This scheme aims to improve the Child Sex Ratio and tries to empower girl child by ensuring that girl child is provided with education.
- The Women’s Reservation Act of 2023 (PRS LEGISLATIVE RESEARCH, n.d.): This Act reserves one-third of all seats for women in the Lok Sabha, State Legislative Assemblies and the Legislative Assembly of the National Capital Territory of Delhi and this reservation also includes seats reserved for the Scheduled Castes and Scheduled Tribes.

- The SC and ST (Prevention of Atrocities) Act, 1989 (UNIVERSAL'S, 2023) is an act to prevent the commission of offenses of atrocities against the members of the scheduled castes and scheduled tribes, to provide for Special Courts for the trial of such offenses and the relief and rehabilitation of the victims of such offenses and matters connected in addition to that or incidental to it.

## **RECOMMENDATIONS**

After digging into the realm of marginalized sections of society and their problems associated with education, employment, political, economic, and social sectors. To cover the entire essence of this topic where representation and participation of marginalized sections have been given attention with certain recommendations :

- Requirement of upliftment for marginalized sections primarily Scheduled Tribes and Scheduled Castes in the sector of education and literacy as only education can enhance the employment opportunities among these sections where they can approach the door to a standardized living. Education must come along with equality of opportunity where discrimination is highly avoided and fellow feelings must be contemplated.
- Legislators must throw light upon the equal representation of marginalized sections where they can feel free to express their opinions politically. Specified quota is required to uplift their participation in the political realm but legislation itself is not sufficient as we boldly require strong and firm implementation of these policies which have been made for their well-being.
- Lawmakers can make laws, executives can implement them, and the judiciary can interpret them but awareness is the core concept because these policies, statutes, and measures are being architected in a way to provide a shield to these marginalized sections but how will they be able to enjoy the benefit of the same if they are not aware. Awareness programs, and advertisements that too in their specific languages as well must be promoted and must be raised to an extent where the majority of the marginalized section can earn a decent comprehension of these policies and statutes.

## **CONCLUSION**

The entire research revolves around the conditions of all the marginalized sections in society hence it provides how various affirmative actions, government policies, constitutional statutes and principles of Dr. B.R. Ambedkar efficaciously stimulated the construction of the Indian Constitution as a shield

that provides prevention to these sections from all the atrocities and discrimination. The decision to procure the ideology of "mixed economy" essentially is a way to social justice for all the deprived classes just so that they do not fall prey to the capitalists and the stronger section of the society because the government itself takes the responsibility of their comfort and security. Constitutional statutes including fundamental rights and where right to equality also provides right of equal opportunity to all the citizens of the country in order to remove the stratifications and to establish a systematized society where social harmony and egalitarianism exists. The Directive Principles of State Policy too provides a set of obligations where Gandhian, Socialistic and Liberal-Intellectual principles should be followed by the State. Other than the specific constitutional provisions, specific acts are also enacted by the government to empower these sections so that they do not lag behind, these acts includes "Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Women Reservation Act, 2023". These acts provide special provisions for the SCs and STs who face atrocities, heinous hate crimes, gross treatments in the society and oppression on the basis of their castes. Similarly, Women Reservation Act, 2023 pushes the women participation in the legislative sphere so that they can also express their political opinions and intensify their political participation to help other deprived women as well. Government initiatives, affirmative action policies and other remedies helped many marginalized classes as well as religious minorities. The enormous and collective helping hands of the three organs of the government that is legislature, executive and judiciary ameliorate the conditions of these sections to an extent where some of these sections are successful in the fields of education, employment and financial stability. Gradually, excessive awareness and efficient implementation will create a pathway where exploitation of these marginalized sections will lessen to the satisfactory extent and all the marginalized class will have a dignified sense of living.

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