CONCLUSION

The paramount objective of the Indian leadership immediately after independence, was to herald a new egalitarian society based on justice and equity, by securing all the people of India justice, social, economic and political and the Constituent Assembly debates stand a clear testimony to this desire. The Indian leadership envisioned equality and justice as the cardinal principles against a background of clearly perceived, entrenched and structural inequality. The major preoccupation of the framers was to retrieve the disadvantaged sections, specifically the SCs, STs and Other Backward Classes, from the historic and cumulative socio-cultural and economic injustice, and to secure them the basic amenities of life of which they had been hitherto denied. Hence the much avowed ameliorative safeguards for the weaker sections, which was a deliberate departure from the established norms of formal equality, was made an inseparable part of the Fundamental Law of the land.

Regardless of the ingenious and onerous effort of the framers and the reiterated assertion of the leadership, India's success in securing the objective of distributive justice and particularly in augmenting the impoverished and wretched conditions of the SCs and STs has been abyssmally low. There has been a hiatus between the proclaimed goals of social justice and its accomplishment; enough contradiction between the ideal of equality and the practice of inequality; discrepancy between the ends to be achieved and the means adopted for them. The failure in achieving the goals of justice, declared time and again, has been primarily due to two discernible reasons:

(i) First, the very conception of justice in our constitution has been inherently paradoxical due to its insistence on liberal theory of justice with all its intrinsic limitations and inadequacies.

(ii) Moreover this inadequate concept of justice remained unrealised because of the
basic contradictions embedded in our socio-economic structure and because of the nature of the state which was ordained a vital work in promoting the objectives of justice.

The adoption of the formal and juridical concept of justice by the Indian leadership in absence of the specific structural transformation thwarted the very objectives of justice recapitulated incessantly. The stress on the individualistic postulates of justice undermining its social content and the primacy to liberty over equality have made the concept of justice in the Indian Constitution inadequately social. The priority to the individual over the community and to the liberty over equality has been manifested in the treatment of the Fundamental Rights and the Directive Principles of State Policy and the inclusion of the former in the justiciable category making the latter as mere pious wishes. This basic tension between the individual and group equality and the primacy given by the Supreme Court to the former over the latter has been the major cause of failure in securing the goals of compensatory justice meant for the underprivileged sections. The unwarranted supremacy on the property right and precedence to formal aspect of equality and liberty over their socio-economic dimensions in the context of deep-rooted graded inequality and prevasive disparity have the spirit of the Objective Resolution ‘high sounding sentiments couched in vain glorious verbiage’. The reliance of the leadership with all its ideological underpinnings has inadvertently made the Constitution an apologia of the prevalent social order.

This liberal conception of justice or the original position of the Constitution makers has been expressed in the functioning of the various state institutions. The judiciary by overemphasising the individualistic and formal aspects of equality and liberty in the face of the existing gross socio-economic inequality has made itself a natural ally of conservative legalism and a poor surrogate of the principles of social justice. Whenever there has been
a tension between liberty and equality or individual interest and community interest, the Supreme Court has very often given priority to the former over the latter. This approach is clearly reflected in its decisions in the cases related to the Directive Principles Vs. Fundamental Right. The Court's reliance on the formal legal rationality and solipsism has seemingly impeded the progress in realising the objectives of compensatory justice.

Because of the flawed conception of justice coupled with the structural socio-economic contradictions the ameliorative measures for the SCs and STs taken by the Government has failed miserably to yeild the desired results. The benefits of the compensatory policies have not percolated down to the lowest rung, the real needy masses; the implementing agencies have taken undue advantage by misappropriating the meagre funds earmarked for this purpose; the tiny better-off section among the SCs and STs has taken the major benefits and developed a vested interest having little concern for their fellow-beings. Rather, the compensatory policy has given rise to unitended consequences such as-the dispossessed SCs and STs have been subjected to ruthless atrocities by the upper castes that go unnoticed and unredeemed, which has created a deep sense of frustration and alienation among them. The failure in accomplishing the proclaimed objectives lies in the very faulty approach and the basic weakness of socio-economic structure which adversely affect the entire schema of the welfare and advancement of the SCs and STs.

The primary reason of the failure in securing the goals of social justice is attributed to the nature of the Indian state. The newly emerged state was conceived as the main instrumentality of social change and was assigned with the herculean task of carrying out a whole range of initiatives from ameliorative measures for the poor to the transformative strategies vis-a-vis socio-economic structure. The state was given some amount of autonomy to accomplish the objectives of social justice within the parameters set by the
Constitution. The social roles taken on by the state is being increasingly abrogated. The autonomy of the state has been eroded, giving place to the growing sway of the dominant and entrenched interests. Instead of being an instrument of liberation and enancipation of the weaker sections, the state is serving the interests of the dominant classes, and protecting the vested interests. The rise of capitalism and the spread of modern science and technology through industrial revolution has further underscored the welfare role of the state. The loss of credibility and legitimacy of the national elite has provoked them to use the state power for the sectarian and selfish purposes. There is taking place a growing decline of the authority of the state in the wake of growing incidence of violence and insurgency. The state has ceased to be. The retarded capitalism with retrograde structure has given rise to ensuing crisis in the system. The concept of social justice has been reduced to a rhetorical ploy used very frequently by the political leaders for legitimisation process.