CHAPTER VI
Appraisal and Suggestions

(I) Appraisal

A review of the foregoing discussion reveals that the concept of distributive justice is of ancient origin. Ever since the birth of society it has been one of the most significant quests of human endeavours. The bitter truth is that distributive justice is the kernel of the civilized society. Like many other social sciences, the science of distributive justice has its roots in Greek philosophical theories. The discussion in one of the proceeding chapters shows that the term 'distributive justice' has passed through several transactions of meaning and has been moulded and remoulded from time to time depending on specific social conditions, time, circumstances and cosmic changes. There was a time when it was used to denote an orderly maintenance of an idealized social status-quo. It was deemed to be a device to keep man in his appointed place in the politically organized society. Both Greek and Roman jurists opined that distributive justice was the constant and perpetual will to render every one his due. For them, the goal of distributive justice was to maintain social

1. See, Supra chapter I, p.22
2. Ibid, p.1
3. Ibid, pp.2-3
4. Ibid, pp. 7-8
status-quo, that is, to cherish the idea of an ideal society in which everyone was put in right place, to be kept there henceforth by the force of law. Plato was concerned with a status society and to him a static condition based upon a nice distribution of appropriate functions represented the most desirable form of equipoise. To both Plato and Aristotle, the word justice meant goodness as well as willingness to obey laws. Plato was of the view that justice consisted in giving to each individual the opportunity for the exercise of functions for the performance of which he was properly qualified by his mental, moral and physical qualities. The great Greek and Roman thinkers conceived that men and classes must be confined to their own specific duties to the state and their selfishness must give place to utter devotion to the state which could only be possible if justice reigned supreme in the state. Plato pleaded that justice consisted in the will to concentrate on one's own sphere of duty, and not meddle with the sphere of others. He was of the firm belief that the habitation of justice was in the heart of every citizen who did his due in his appointed place. His notion of justice did not embody a conception of rights but of duties. To ensure justice to all, he favoured the idea of division of society into three classes representing

5. Ibid, p. 4.
the elements of reason, spirit and appetite. He gave a wider connotation to the notion of justice and was highly of the view that justice was always based on the submergence of the individual in the society. He did not agree with the notion of individual versus State. He opined that justice denoted self control on the part of various classes of the society and obligated various members of each class to stick to their own allotted functions within the class and not interfere with the functions of other individuals in the same class. Like Greek and roman philosophers, Kelsen was of the view that 'longing for justice was men's eternal longing for happiness. It was happiness that man could not find alone as an isolated individual, and hence sought it in the society. Justice was social happiness to be guaranteed by 'social order'. He further added, "Happiness that a social order is able to assure can not be happiness in a subjective individual sense, it must be happiness in an objective collective sense, that is to say, by happiness we must understand the satisfaction of certain needs, recognised by social authority, the law giver, as needs worthy of being satisfied, such as the need to be fed, clothed and housed and the like".

The old notion of justice, as propounded by

8. Ibid p.11.
ancient jurists, however, did not find much favour with the passage of time and thus a new dimension was added to the contours of distributive justice to meet out the changing needs of the society. The credit to do so really goes to Herbert Spencer who identified justice with distribution and endeavored to widen the ambit of distributive justice in tune with time frame of the society. He championed the cause of poor by adding that distributive justice necessitated that each individual ought to receive the benefits and evils consequent upon the conduct. The emphasis was shifted from analysis of justice to that of distributive justice because the 'welfare state' concept was generally thought of an application of the notion of distributive justice. Consequently, the term distributive justice has become quite comprehensive and embraces the whole economic dimension of social justice, the entire question of proper distribution of goods and services within the society Briefly speaking, the philosophy of distributive justice takes within its sweep a sincere demand for equality in the distribution of facilities or burden with a view to strike a balance in the prevailing socio-economic conditions of the society just to bring equilibrium between the conflicting interests, claims and desires, of the individual. While eliciting the role of

11. Ibid, p.15.
12. Ibid, p.16.
distributive justice, P.N. Bhagwati. J. rightly remarked, "when I talk of justice, I mean not commutative justice but distributive justice, justice in-depth, justice which penetrates and destroys inequalities of race, sex and wealth, justice which is not confined to a fortunate few, but takes within its sweep the entire people of the country, justice which ensures equitable distribution of social, material and political resources of the community. This is a kind of justice which we in India are trying to realize through the process of law and our substantive law is being geared to the task".¹³

To reiterate, Justice Krishna Iyer visualized distributive justice as an issue of special concern for the backward human sector of the lowliest and the lost, and activist, affirmative state action for their advancement as a democratic imperative, plus the organization of sensitive and creative milieu which offer, as of right, social, economic and cultural opportunities, dignity of person-hood and individuality to every human, regardless of seeming of real disparities to unfold his full mental, moral and physical potential.¹⁴ The spirit of distributive justice seeks to improve and harmonize the society with a strong commitment to ameliorate the socio-economic imbalances. It involves a transfer of resources

¹³. Ibid.
¹⁴. Id. p. 17.
from one section of society to another. The transfer is only an equitable reallocation of resources meant only to correct the imbalance existing in the society and not to cause unnecessary harassment to the advanced sections there-of. The true objective that lies behind the philosophy of distributive justice is to protect the weak, aged, destitute, poor, women, children and other down-trodden segments of the society against the ruthless competition of life and to give advantageous aids to them to make them to stand on their feet boldly with more advance section of the society. Frankly speaking, the concept of distributive justice implies the prevention of unjust enrichment at the expense of the underprivileged and ensure a balance and harmonious development of the society. Its aim is not to pull down the advance sections of the society but only to uplift the backward and the weak without unduly and unreasonably affecting and undermining the interest of the handful rich class. Rather it implies that member of a community should fulfil his moral obligation towards the fellow members of his community. Basically, it takes into consideration three important facets of distributive process, namely, (i) total amount of goods to be distributed; (ii) the pattern of distribution arrived at; and (iii) the distributional procedure described as the principles of selection, by means of which the distribution is arrived at.

The notion of distributive justice is
quite dynamic and positive in nature and is determined to
create a new social order based on equality and justice
through the instrumentality of law. It is a relative
concept which changes with time and circumstances falling
in line with people's culture and aspirations. Dean Rourke
Pound, an eminent American Jurist, very lucidly spoke in
the following words: "As the saying is, we all want the
earth. We all have a multiplicity of desires and demands
which we seek to satisfy. There are very many of us but
there is only one earth. The desires of each continually
conflict with or overlap those of his neighbours so there
is as might say a great task of social engineering. This
is a task of making the goods in existence, the means of
satisfying the demands and desires of man living together
in a politically organized society, if they can not satisfy
all the claims that man make upon them, at least go round
as far as possible. This is what we mean when we say that
the end of law is justice. We do not mean justice as the
ideal relation among men. We mean a regime. We mean such an
adjustment of relation and ordering of conduct as will make
the goods of existence, the means of satisfying human
claims to have a things and to do things, go round as far
as possible without the least friction and waste."

The foregoing study shows that various
theories of distributive justice have been propounded

15. Ibid, pp.32-54
from time to time in search of an ideal standard of justice. Almost all the jurists unanimously share a common view that distributive justice is a device to promote goodness, virtue, pleasures, and avoid evil, pain and unhappiness. Nicholas Rescher, a famous jurist, rightly opined that one of the most basic elements of the distributive justice should be to minimize the number of persons in a state of genuine deprivation regarding their share in the available pool of utility. Rawls rightly understood distributive justice as a co-operative venture for mutual advantage, conceived not as a substantive goal but as a plan of conduct which will ensure that the endowment of each will be complementary to the goal of all. To him, philosophy of distributive envelopes two fundamental principles, namely: (a) that each person is to have an equal right to the most extensive total system of basic liberties compatible with a similar system of liberty for all; and (b) that social and economic inequalities are to be arranged in such a way that they are of greatest benefit to the least advantaged. He viewed the problem of distributive justice as one of procedure. He was in favour of creating a public system of rules by reference to which the conflicting claims could be

17. Ibid, p.41.
authoritatively determined \(^{18}\) Like Nicholas Rescher, John Rawls and Dean Roscoe Pound, Gandhiji's Crusade for the liberation of oppressed classes is testimony of his commitment to equality and social justice. Distributive justice for him was nothing less than 'SARVODAYA' that is, the good of all which includes the virtue of truth, love and justice towards all human beings. \(^{19}\) It is revealed that the notion of distributive justice for Gandhiji's was a sincere desire to seek justice for all the weak, the poor and the oppressed, be it labour, women or untouchables. To him, distributive justice meant to secure justice, equality and dignity to millions of unfortunate who had been denied justice for centuries.

The discussion contained in Chapter II of the present work throws light on the fact that the term 'distributive justice' has been the sine-qua-non of almost all the legal systems of the world since time immemorial, so was the case with India. The survey of chapter II makes it transparently clear that the notion of the distributive justice in ancient India remained highly encased within the 'golden Gasket of Dharma' for a quite long time. \(^{20}\) It can be safely said that the threads of justice in India have been spun around the concept of Dharma and regulated almost

\(^{18}\) Ibid, p.47.

\(^{19}\) Ibid, p.52.

\(^{20}\) See, Supra Chapter II, p.63.
all individual's activities concerning his life. The vedic study discloses that law and justice were hardly distinguishable and shared together their mutual ideal relationship in the service of society and the center of both remained the 'man' whom Upanishada's described as the child of eternity.\(^\text{21}\) All men, whether king or ordinary, were bound to regulate their activities, in performance of their social, economic, political, religious and secular duties, in accordance with this prescribed code of ethics. The Smiritikars also were of the opinion that justice should not only be by the letter of law, but it should also be equitable justice.\(^\text{22}\) The survey of the history of ancient India makes it abundantly clear that during the whole vedic period the notion of justice dominated the Hindu thought. To reiterate Manu, "justice being violated, destroys, justice being preserved, preserves, therefore, justice must not be violated lest violated justice destroy us."\(^\text{23}\) Similarly, Kautilya laid emphasis on the need of promoting distributive justice and declared that king was under the duty to execute the spirit of justice fearlessly as he was the ultimate defender and preserver of his

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21. Ibid.  
22. Ibid, p.65.  
Protection of justice was the part and parcel of 'Rajdharma'. Briefly speaking, the term distributive justice in ancient India was not "the chance product of profitable and unprofitable hours," but was the result of an innate and reasonable impulse of humanity, a sociological process pushed forward by necessity due to the co-existence of reasonable beings with material and spiritual wants.

It is quite imperative to mention here that administration of justice during Muslim era was founded and guided by the sacred books of Muslims. The movement from ancient to medieval society did not witness any fundamental change in the contents and concepts of justice. Distributive justice during Muslim era usually revolved around the philosophy 'shariat law's. It is well established that the scale of justice was tilted in favour of Muslims with the result that the position of non-Muslims became quite miserable in comparison to the Muslims. Almost all actions to administer distributive justice were judged according to ethical principles contained in shariat laws. The whole analysis of

24. Ibid.
25. Ibid, p.70.
27. Ibid.
28. Id.
distributive justice administered during Muslim era shows that the discrimination of non-Muslims and the dominance of feudal lord, Mullahs, and Khalifas left a very little scope for the growth of notion of distributive justice in Muslim society. Rather, it may be safely stated here that the modern concept of distributive justice emerged as a matter of strong reaction to Muslim rule who very seldom treated depressed classes and weaker sections fairly and represented discrimination on the basis of caste, colour, religion, race, language and sex. This virtually, gave birth to frustration and there emerged a wide gulf between 'haves' and 'have-nots' due to wrong policies framed by the rulers from time to time. The result was that in post-Muslim era there was felt a great need to strengthen the spirit of justice on the principles of equality with a zeal to restructure the Indian society on egalitarian principles.

The transition is witnessed in the use and disposition of the term 'justice' during British era. The earlier notion of justice founded on theological instinct was replaced by the term 'Justice according to law'. However, we find that British rulers adopted the policy of status-quo with little or least change in administration or

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29. Ibid, p.76.
laws of Hindus and Muslims. The attitude of the Britishers with regard to the distributive justice was rightly summed up in a Calcutta newspaper in 1873 in the following words: "Avoid change by removing obstruction rather than by supplying new stimulants, slowly develop, but do not violently upheave native society, leave the natural relation within the limits that present oppression". All this made Indian to realize that no justice was possible without liberty. The precursors of freedom movement boldly denounced the British policy of status-quo and raised strong voice against exploitation. They championed the philosophy of material and spiritual equality and successfully diagnosed three principal evils: poverty, tyranny and ignorance from which the millions of people were to be saved. They raised voice against the British regime and gave a different meaning to the term 'distributive justice' in the light of miserable conditions of the Indian society. For them, justice was a weapon to provide to the humblest, the weakest and the lowest sections of the society all the amenities that rich man had enjoyed.

Thus the goal set by our freedom fighters

30. Ibid, p.78.
32. Like Raja Ram Mohan Roy, Swami Vivekananda, Gandhiji, etc.
was not only to fight for the emancipation of the country from the fetters of British rule but also to reconstruct the Indian society on the dynamic philosophy of distributive justice. They thought freedom not an end in itself but only a means to achieve an end; the end being to liberate India through a new constitution, to feed the starving millions, to clothe the naked masses, and to give every Indian the fullest opportunity to develop according to his capacity.³³ Their final aim was to establish a classless society with equal economic justice and opportunity to all.³⁴ Thus, a thorough probe into our National charter reveals that numerous provisions have been added to actualise the goal of distributive justice so as to achieve economic, social and political equality for all irrespective of difference of caste, colour, race, religion and sex. It is not an exaggeration to add here that Indian Constitution is a vortex of Indian ethos and Indianess designed to recompense low and the high, weak and the strong and poor and the rich to make democracy really socialistic and egalitarian.³⁵ Both the preamble and the Directive Principles of State Policy furnish the evidence of the unmistakable anxiety of the farmers of the constitution to shape it as mighty instrument for the

³³. For detail see, C.A.D. Vol. II, p.316
³⁴. See, Chapter IV Supra p. 183.
³⁵. See, chapter II Supra, p. 87.
Social, Political and economic transformation of the people. To reiterate Justice Mathew, "A common approach is to begin by defining certain basic needs necessary for subsistence, food, shelter, clothing, etc. Simply by virtue of his member in the class of man, every human being in the society should be provided with such basic necessities no matter how small his contribution, no matter how meagre his ability." 36

The study of our National Charter reveals that our farmers of the Constitution were really eager to draw up a Preamble which embodies the fundamental principles of new social order. 37 The very preamble of the Constitution gives high weightage to the term justice which may be said to be the pillar of distributive justice. It implies a harmonious reconcilement of individual conduct with the general welfare of the society and embraces within its ambit the entire social, economic and political sphere of human activity. The word 'Justice' incorporated in the preamble of the constitution signifies not only the absence of any arbitrary restraint on the freedom individual action but also the creation of conditions which provides the essentials ingredients necessary for the fullest development of the personality of the individual.

The very idea that lies hidden in the Preamble contemplates a change in social, economic and political framework in order to effect a transition from serfdom and attempts to remake the material conditions of the society. It may be safely stated that the scheme of the distributive justice visualized long back in 'Objective Resolution' has been given fundamental place in the Preamble with special emphasis on trilogy of justice, that is, social, economic and political. The spirit of distributive justice is also reflected in Article 38 which obligates the State to strive to promote the welfare of the people by securing and protecting a social order in which justice, social, economic and political shall reign supreme.

The notion of equality contained in Part III of the constitution has also close association with the philosophy of distributive justice. The spirit of Articles 14-18 represents a protest-ideal, that is, a symbol of man's revolt against chance, fortuitous disparity, unjust power and crystallized privilege.\(^{38}\) Realistically speaking, distributive justice enshrined in our National charter is a low-lane highway one requiring the equal treatment of the equals and the other requiring unequal treatment of unequals.\(^{39}\) The term distributive justice as envisaged by our National Charter owe a great

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38. See Chapter III p. 108.
deal to economic reconstruction to Indian society. It sets forth a programme for the reconstruction and the transformation of medieval hierarchical society into a modern egalitarian society based on individual achievements and equal opportunity for all regardless of Caste, tribe, race or religion.

Keeping in view the strong commitment to hammer out a new social order, the constitution embodies the philosophy of compensatory discrimination as an equalizer to those who were made too weak to compete with the advanced section of the society in the race of life. The device of protective discrimination is really the brain child of the framers of Indian constitution who were fully aware of political, social and economic inequalities which existed in India since long. The wise founding fathers of the constitution thought that unless preferential treatment was given to these unfortunate brethren it would be impossible to say that they had been afforded equal opportunity with forward section of society. It is strictly in this context that the Constitution of India authorizes the State to provide special benefits and preferences to certain sections of population, to reserve posts in Government services, to reserve seats in legislature and local bodies, to reserve places in public institutions and

40. Constitution of India, Articles: 15(3), 15(4) and 16(4)
The very idea of protective discrimination is to counter-balance the disadvantage classes for past wrongs suffered by them because of unequal social structure of Indian society. Its sole purpose is to promote the common man's capability overpowering environmental adversities and opening up full opportunities to grow without succumbing to the sophisticated argument of the elite that talent is the privilege of few and they must rule. The basic purpose to incorporate protective discrimination is to obtain results which establish an equilibrium between the different situations in the light of prevailing circumstances of Indian society.

It is also equally true that every efforts have been made in our constitution to abolish inequality found in Indian society. Article 17 is a strong step to undertake the effective measures to weed out the existing discriminatory practices of social inequalities prevailing in society for centuries together. It signifies a kind of new power morality securing to all its citizens equality of status and opportunities and promote among them fraternity assuming the dignity of the individual and the duty of the

41. For detail see, constitution of India, Part III, Articles 15(3), 15(4) and 16(4), Part IV, Article 46 also see Article 330-342.
42. See, Chapter III, p.121.
nation. It is really comparable to the proclamation of emancipation issued by Lincoln in America freeing their slaves of slavery and as such frees the untouchable of untouchability and disabilities, discrimination, indignities, exploitation, liabilities associated with the age old abuses of untouchability. Article 17 may be rightly called as a positive rule of distributive justice which confers certain fundamental immunities and privileges on all those subjected to the disability and liability consequent to 'untouchability'. Similarly, right against exploitation has been specifically incorporated in Part III of the constitution with a view to abolish the complex dealing in human beings. The goodness of these provisions lies in the fact that the poor, down-trodden and dumb have been liberated completely from the curse of begging and can rightly be said that these provisions are the charter of freedom for common man. A guarantee has been furnished under these provisions to the effect that even the poorest of the poor cannot be exploited because of his poverty and economic hardship.

It is also revealed from the foregoing study that constitution of India has made certain special provisions for the protection of the interest of the minorities. It has perhaps been done with the realization

43. Constitution of India, Articles 23 and 24
that colonization of the religion, race, caste must be ended as they are absolutely inimical to democracy and the progress of the country. State has been obligated to promote educational and economic interest of minorities and protect them from social injustice and other forms of exploitation.

Various provisions have been added to our constitution to safeguard the interests of various minority groups whether based on religion or language. The rights of the minorities are sought to be preserved, first through the Fundamental Rights. These rights apply generally to all citizens, as well as minorities in particular and offer valuable safeguards for the minorities over a comprehensive field of their social life. Besides, there are a few Directive Principles of State Policy which are also relevant from the point of view of minority rights. Besides, other special Provisions have also been made in the constitution safeguarding specifically the social, economic, educational and cultural rights of the minorities.

44. For detail see, I.P. Massey, "Constitutional Protection to Educational Institution of minorities in India" in M. Imam, Minorities and the law (1972), p 333.  
45. Ibid, Articles, 29, 30 and 320.  
47. For example see, Articles 38, 46  
48. Ibid, Part IV and also see Articles 347, 350, 350-A and 350-B.
The Directive Principles of State Policy contained in Part IV of the constitution highlight ideals aspirations, sentiments, the precepts and goals of the entire freedom movement. They are the conscience of distributive justice. These principles specifically provide that the wealth and its source of production shall be distributed so as to subserve the common good and provide adequate means for livelihood for all. The State is expected to secure the health and strength of the workers, the right to work, to education and to assistance of want, just and humane conditions of work and living wage for worker, uniform civil code. Part IV seeks to promote the economic interests of weaker section of the society, raising the level of nutrition and standard of living, improving the public health and organization of agricultural and animal husbandry. The directive Principles are truly in the nature of duties which the constitution calls upon the state to perform to achieve the goal of distributive justice. Briefly speaking, Part IV of the constitution is an attempt to maintain a proper balance between equality in law and equality in fact by adjusting the need of uplift of the weaker segment of society with social interest and constitutional protection given to other section. It imposes an affirmative duty upon the

49. Ibid, Article 38.
state to destroy social and economic inequality and promote the welfare of the people and bring about the social order where justice social, economic and political shall inform all the institutions of national life. In order to create the environment of social welfare state, various beneficial provisions have been added in Part IV of the constitution to promote the interest of women, children, workers and the weaker sections of the society to protect them from social and all form of exploitation.

Similarly, Article 39-A has been incorporated to ensure equality of justice in its true perspective. The State has been obligated by this Article to see that there is no violation of fundamental rights of any person particularly who belong to weaker section of the community and is unable to wage a legal battle against strong and powerful opponent who is exploiting him. Thus there is now left no doubt that State Governments are under a constitutional mandate to provide free legal services to the poor. It cannot be permitted to delay this relief on the plea that state has no adequate financial resources to meet out the necessary expenditure needed for providing free legal aid to the poor.

Keeping in view the constitutional philosophy of distributive justice, many reformative

50. Ibid, Articles, 38 and 39.
51. Ibid, Articles 41-43 A, 45-47
52. Inserted by constitution (Forty Second Amendment) Act 1976, (with effect from 3-1-77).
legislations have been enacted by the Parliament and the State legislatures during the last four and a half decades. The study shows that Indian Legislature has quite actively started performing the role to act as the vehicle of social transformation. The study discloses that the law makers in India have been persuaded by Articles 39(b) and (c) which direct the State towards securing that: (a) the ownership and control of the material resources of community are so distributed as best to subserve the common good; (b) the operation of economic systems does not result in the concentration of wealth and means of production to the common detriment. In order to achieve these objectives, the study shows that legislatures have done their best to break up the concentration of wealth in a few hands and provide social and economic justice to the toiling masses in rural India. Various State Governments have enacted land reforms legislations to abolish all types of intermediaries at one stroke. These legislations are the sincere attempts to eliminate all forms of exploitation and social injustice so as to ensure equality of status and opportunities to poor tenants.

The primary objective of the land reform legislations is to undo institutional and motivational obstacles and lay a strong foundation to evolve an equalitarian social structure by striking boldly at the old

54. See, chapter IV p.190, F.N. 19.
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feudal and semi-feudal structure. Almost all State legislatures in India have enacted land ceiling laws to arrest the growth of monopolistic tendencies in land ownership. These legislations have been made immune from the attack on the grounds that such legislations are violative of fundamental rights. To translate the dream of distributive justice into action, Parliament and the State legislatures are awfully busy in a gigantic exercise of giving a new look to the whole mechanism of the constitution that is why the country today is through Seventy Fifth Amendment. It is imperative to mention here that the heroic task to assist and boost up the spirit of distributive justice has been completed to a great extent by Forty-Second Amendment Act, 1976 which set at rest the long agitated problem of relationship between Directive Principles and Fundamental Rights. Article 31-C reads: "Notwithstanding anything contained in Article, 14, no law giving effect to the policy of State towards securing all or any of the principle laid down in part IV shall be deemed to be void on the ground that it is inconsistent with or takes away or abridges any of the rights conferred

56. Ibid, pp.195-196
by Article 14 Art 19 or Art 31" Similarly, the Forty Fourth Amendment Act, 1978 is a concrete step towards the realisation of distributive justice. The Amendment has taken away the Right to property from the category of fundamental right and made it a right to be regulated by an ordinary law. The sole purpose to bring these amendments into existence is certainly to bring the principal means of production under social ownership and speed up productions to ensure equitable distribution of national wealth.

It is also evident form the foregoing study that there have been made serious legislative attempt to give a fair deal to untouchable by enacting untouchability Act, 1955. The Act provides that enforcement of any disability arising out of untouchability shall be an offence punishable in accordance with law. Besides, several other legislations have been enacted by various State legislatures in India to remove such social disability. Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is also a step to prevent atrocities on the Scheduled Castes and Scheduled Tribes. The State Governments have been given wide powers under different legislations to make welfare schemes for their betterment and restore the feeling of security amongst the members of Scheduled Castes and Scheduled Tribes. All possible legislative attempts have been made to save these down-

58. Constitution of India, Act, 300-A
59. See, Chapter IV, p.216.
trodden from all kinds of exploitation which oftenly are experienced by them in the process of their development.

The foregoing study also reveals that the Indian legislatures have afforded top priority to the welfare of the children to allow them to grow into a strong and useful tree. The study of various child welfare legislations reveal that the State Governments have been directed to ensure that the tenderage of children is not abused and they are not forced to enter into avocations unsuited to their age or strength by reason of economic necessity. A duty has been cast on the State to provide adequate service to the children to ensure their full physical, mental and social development. The deep examination, of The Factories Act, 1948, The Plantation Labour Act, 1951, Mines Act, 1952, Apprentices Act, 1961, Beedi and Cigar Workers Conditions of Employment Act, 1966; (The Child labour prohibition and Regulation) Act, 1986 etc. make it absolutely clear that legislators have made sincere attempts to prohibit the engagement of children in certain employment and improve their working conditions.

It is also true that the law makers in India have left no stone unturned to promote the welfare of women in India. They have enacted many women welfare legislations to ensure not only formal equality of sexes but also visualize affirmative action for bringing equality

60. Ibid, pp 226-236.
Moreover, the welfare legislations obligate the State to evolve policy towards securing that health and strength of women worker are not abused and that they are not forced by economic necessity to enter avocations unsuited to their age and strength. The foregoing study also shows that many provisions have been made under woman welfare legislations to improve the legal status of woman in the area of personal law. The position of woman belonging to various sex has been improved a lot by elevating their legal status on par with the man section of the society. New legislations have been made to uphold the equality principle and render justice in favour of woman.

The philosophy of 'Mitakashra' and 'Dayabagha' schools, having different rules of succession have been discouraged and substituted by new legislations. The principle of equality amongst sexes in the matter of succession have been given a statutory recognition and new rules have been carved out for the devolution of property in case where a person dies intestate. She has been made an absolute owner of her property and has the right to alienate her property according to her wish without any restriction. The male and female have now right to inherit simultaneously. All this has been done to erase injustice and remove permanently the legal shackles by abolishing the concept of widow's estate once for all. The legislatures

63. Ibid, p.245.
have also granted her a superior position as guardian of her child. Similarly, all legislations concerning woman workers have been designed in such a fashion that injustice based on unequal birth and opportunity is undone and wealth is distributed as equally as possible between man and woman to generate an environment where socio-economic disparities are removed. Equal Remuneration Act, 1976, Maternity Benefit Act, 1961, Suppression of Immoral Terrific in woman and Firls Act, 1956, Dowry Prohibition Act, 1961, Medical Termination of Pregnancy Act, 1971, Indecent Representation of Woman (Prohibition) Act, 1986, The commission of Sati (Prevention) Act, 1987, etc. are the welcome measures undertaken by the Indian legislatures to provide justice to woman and check the social evils arising out of existing social systems prevalent in almost every part of the country.

The foregoing discussion reveals that Indian Parliament and the State legislatures have really been of great success to give birth to labour welfare jurisprudence. The welfare legislations enacted from time to time by the legislators have afforded broad and clear cut guidelines to generate the environment of distributive justice in favour of the poor workman. It appears that the entire philosophy of labour welfare legislation has derived its main strength from distributive justice. These

64. Ibid, p.247.
legislative bodies are busy in shaping the labour welfare policies in such a manner, that their working conditions have sufficiently been improved and there has been assured an equitable distribution of profits between mighty employers and the poor labourers. The role of the legislative bodies lies in the fact that they have quite successfully made distributive justice an integral part of industrial legislation with an aim and object to weed out socio-economic disparities. The Study reveals that Indian Parliament has always remained sensitive to the poor worker's problems, and thus an array of legislations have been hammered out to solve their tricky problems. The Workmen Compensation Act, 1923, Minimum Wages Act, 1948, The Payment of Bonus Act, 1965, Maternity Benefit Amendment Act, 1988, and The Bonded Labour (Abolition Act, 1976; and Legal Services Authorities Act, 1987, etc. etc. are the welcome steps to ameliorate the conditions of the labour and provide justice to the labour class with an attempt to minimize the inequalities in income, opportunities and constitute India into a 'welfare state'.

The foregoing study further shows that executive is also equally busy in carrying out the policies and programmes designed by the legislature for the welfare of the people in India. The efforts to concretized the goal of distributive justice appear to have been initiated soon after attaining independence. Accordingly, the First Five
Year Plan was launched in 1951 to hammer out the priorities to provide justice to the deprived sections of the society. The study of First Five Year Plan reveals that an outlay of Rs. 2,013 crores was earmarked to make the beginning. The First Five Plan had a two-fold objectives. Firstly, it aimed at correcting disequilibrium in the economy. Secondly, it proposed to initiate simultaneously a process of an all round balanced development which could ensure a raising national income and a study improvement in living standard over a period. In the light of the constitutional philosophy of distributive justice, it worked out a scheme of priorities in terms of which to proceed further with a view to lay foundation of an orderly development. The foregoing study shows that there has been in the plan period a considerable enlargement of social services. It is evident from the fact that in 1950-51 the number of children in primary schools was 18.7 million, by 1955-56 it had increased to 24.8 million— an increase about 33 percent. Similarly, the percentage of children in the age group 6-11 attending school was 42 in 1950-51, it increased to 51 in 1955-56. In the age group 11-14, the corresponding percentage increased from 13.9 to 19.9.65 The compulsory education, which had been introduced in 396 urban areas before the plan was in force in 1955 in 1082 urban areas, the increase number of villages in compulsory education was

20261 to 38726 villages. It is estimated that in the course of First Five year Plan excluding the age group upto 10 years, the proportion of literates increased from 20 to 25\(^66\) percent. There has also been some considerable progress during the First Five Year Plan in respect of girls education. In 1950-51 girls accounted for 26.7 percent of the total number of the pupils in primary and middle classes, for 13.9% in high and higher secondary classes and for 12.4% in colleges and university, by 1954-55, these proportions rose to 28.2, 16 and 13.6% respectively. Moreover the number of educational institution rose during this period from 16814 to 18617\(^67\).

A number of programmes for housing were initiated with a total provision of Rs 48.7 crores to be spent on subsidized housing schemes, the low income group schemes and housing schemes for plantation labour and for labour in coal and mica mine\(^68\). It is evident from the Plan that the Ministry of Rehabilitation provided 3,23,000 houses for tenants in urban areas and about 3,00,000 units were constructed by the State Governments and Central Ministries other than Ministry of Works, Housing and Supply. For low income group housing, the States Governments allocated Rs 8.94 crores and 3930 houses were completed and another 12791 houses were under construction.

\(^{66}\) Ibid, p.258.
\(^{67}\) Ibid, p.270.
\(^{68}\) Ibid, p.283
It is also revealed from the First Five Year Plan that it made a decent beginning in translating into concrete policies and programmes one of the most important objectives of national planning, namely, the provision of opportunities of growth for sections of population who were specially backward and removal of handicap from which they had long suffered. Rs 31.9 crores were spent for the welfare of backward classes. During the plan about 4000 schools were established for children of Scheduled Tribes and a sum of Rs 1.28 crores were spent on education programmes with the result that 48500 students were benefited from stipends and scholarships and 45000 from various form of grants in fees. Several States carried out programmes for developing cottage industries and subsidiary occupation amongst tribe population. These include beekeeping, sheep-rearing, weaving, sericulture and palm goods. In the similar spirit the problems of Scheduled Castes were closely intervened with those of other section of population amongst whom they lived. About Rs. 1.6 crores.

70. Ibid, p. 289. These section were (a) Scheduled tribes, numbering about 19 million, (b) Scheduled Castes numbering about 51 million, (c) criminal tribes numbering about a little over 4 million and other groups which may be declared as being socially and educationally backward. 71. Ibid, p.290.
were spent on providing educational facilities for the children of scheduled castes. The ministry of Education increased an expenditure of Rs of about Rs. 3.65 crores during the plan for granting 8464 scholarships to tribal students, 36955 scholarships to Harijans and 27725 scholarships for students from other backward classes.  

The study of First Five year Plan also shows that a new National Land Policy was worked out for the first time to actualise the goal of distributive justice. Main thrust was on weeding out the intermediaries and bring the tillers of the land in direct contact with the Government. The main developments during 1955-56 were: (a) the completion of acquisition of Zamindaries in districts of Bihar Zamindaries in other 8 districts had been taken over earlier); (b) enforcement of legislation in West Bengal, where all estates were taken over in April 1955, (c) the adoption and partial implementation of legislation for abolition of inamtnues in Mysore, Edvagai estates in Travancore-Cochin and Istamarari (Permanently Settled) Estates and jagirs in Ajmer, and (d) enactment of legislation for abolition of inter-mediaries for the hilly areas of Jaunsar Barwar (U.P). To meet all the requirements of land reform a sum of Rs. 615 crores was earmarked.
The Study of Second Five Year Plan further shows that concrete steps were undertaken to lay the firm foundation of Socialistic pattern of society. Reduction of inequalities in income and wealth and a more even distribution of economic power was one of the principal objectives of the plan. It was stressed that benefits of economic development should accrue more to the relatively less privileged sections of the society and there should be progressive reduction in concentration of wealth and economic power. For this purpose, the measures of land reform were given top priority and Rs. 450 crores were earmarked during this plan period for compensation and rehabilitation assistance payable to the intermediaries. A considerable importance was attached to social services and Rs. 1289 crores were spent on education, health and social welfare programmes to ensure justice-social, economic and political to the unfortunate brethren. The result was that the number of students increased from 23.5 million in 1950-51 to as many in 43.5 million as 1960-61 an increase of 85 percent. The number of primary schools increased from 2,10,000 to 3,42,000 while that of high and higher secondary schools from 7300 to 17000. Consequently the proportion of children attending schools in the age group 6-11 increased from 42.6 percent to 61.1 percent and

76. See, Third Five Year Plan (1961), Chapter III, p.32.
77. See, Second Five Year Plan (1956), p.182.
in the age group 11-14 from 12.7 percent to 22.8 percent. Similarly, there was a considerable expansion of health services: a large number of health units and maternity and child centres were opened to provide justice to the poor people. Special welfare programmes were also taken for Scheduled Tribes, Harijans and other Backward classes. An area of 3.6 million acres of land was allotted to members of Scheduled Castes and Scheduled Tribes and another 2.6 million acres were allowed to other Backward classes during this Plan period. About 68000 post-metric scholarships were awarded to students of these classes. In order to improve the living standard of the people new housing schemes were made and a sum of Rs 120 crores was distributed amongst the poor and needy people to spend on housing. The total programme for second Plan envisaged the construction of 1.9 million units as compared to 1.3 million during the First Plan. It is also revealed that a total amount of Rs 91 crores was spent on the welfare of Backward classes of which Rs. 47 crores were for Scheduled Areas.

The Third Five Year Plan was started with an objective to provide greater equality of opportunity and weed out disparities in incomes and wealth. It endeavoured to shape economic and social policies in the

78. Superanote 76, p.46.
79. Ibid.
80 Supranote 77 p.556.
81. Ibid, p.583.
light of the philosophy contained in Article 38 which inter-alia provide for the promotion of healthy environment where in the welfare of the people shall be secured and protected to ensure a social order in which justice social economic and political is made available to all. The plan raised the sites and set the achievement of a "good life" for every citizen as the ultimate goal of socialistic society that the country had already accepted. It laid emphasis on the establishment of socialistic society with an assurance to provide at least minimum income for every one and postulated that, as a first step towards equality of opportunity for every citizens, a socialistic economy should provide for the basic necessities in particular for food, work opportunity for education, reasonable condition of housing and a minimum level of income which is given circumstances will ensure tolerable living standard. A special attention was paid with regard to land reforms with a view to weed out all elements of exploitation and provide security for the tillers of the land. The study of Third Five Year plan discloses that a comprehensive programme was undertaken to abolish intermediaries tenures, Zamindaries, Jagirs and Inams which covered more than 40% of the area in the country. The result of the comprehensive programme was that 20 million of tenants came into direct relationship.

83. Ibid, p.2.
with the State and improved their social and economic condition. Similarly, priority was also accorded to promote the welfare of working class with an attempt to enable them share the fruits of progress in an equitable manner in pursuance of the philosophy contained in the Preamble, Part III and Part IV of constitution. Efforts were also equally made to provide houses to low income group and middle income group which generally belonged to the community like, Scheduled castes, Scheduled Tribes and Backward Classes.

The survey of Fourth Five Year Plan discloses that distributive justice was explicitly accepted as the goal of the country's programme for social and economic transformation abridging the gap between the rich and the poor. Thus efforts were made to gear up administrative machinery at all level to provide basic necessities to the unfortunate brethren. A total outlay of Rs. 23750 crores was spent under the plan to create conditions necessary for a sustained increase of about 5 percent per annum over the next decade. Considerable emphasis was laid on land reforms to eliminate the exploitation and social injustice. These objective were sought to be achieved by abolishing all inter-mediaries.

84. Supranote 76, p221.
85. For detail see, chapter IV Supra, p.299.
86. Ibid, pp 301-305.
interest between the state and the tiller's of the soil, regulating rent, conferring on tenants security of tenure and eventually ownership rights, imposing ceiling on agricultural holdings, distributing surplus land amongst the landless agricultural labourers and the small holders. The review of Fourth Five year Plan shows that the implementation of the enacted land reforms legislations has almost been practically completed and only a few minor intermediaries tenures remained to be abolished. The compensation payable to ex-intermediaries was computed to be Rs. 670 crores out of which about Rs. 275 crores was paid to the land owners during the end of the Fourth Five year Plan. It is also evident from the study of this plan that all States enacted legislation to avoid exploitation of the poor tenants. It is also clear that about one million hectares of land was declared surplus and about 0.53 million hectares of land had been distributed to landless agricultural workers and small holders. Besides, three million tenants and share croppers had acquired ownership of more than 7 million acres. Similarly, great attention was paid to social welfare programmes which included prevocational training for school dropouts, reduction of beggary rehabilitation of handicap persons welfare of backward classes, and other tribal

88. Ibid, p.42
89. Ibid.
90. Ibid, p.43
91. Supranote 82, p.126.
communities. Practical ways were also evolved to enable the poor workers to make an increasing contribution in national development. In order to ensure minimum standard for poor workers in respect of the living conditions a sum of Rs. 45 crores was earmarked for the subsidized housing schemes. A remarkable increase is also witnessed in the field of education. Between 1950-51 and 1965-66, the number of children going to school rose from 10 million to 15 million in classes 1-5 and 3 million to 11 million in classes 6-8. Moreover an encouraging trend was witnessed about the enrollment of Scheduled Castes and Scheduled Tribes children. The enrollment of students of backward classes at the secondary stage increased from one million in 1950-51 to 5 million in 1965-66. Similarly, the percentage of the girls enrollment shot up from 24.6 percent to 56.2% in classes 1-5, 4.5% to 6.7% in classes 6-8, and 1.8% to 7.8% in classes 9-11 during the last fifteen year of the Third Plan.

It is disclosed from the study of Fifth Plan that the planners kept in view the pledges given to the people and hence the pattern of policy formulation for this plan was derived from the constitutional philosophy with the firm commitment to create an environment of distributive justice. The plan reflects that high priority

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92 For detail see, chapter IV supra, pp.312-313.
93 Ibid, p.314.
was accorded on the removal of poverty. The basic objective of Fifth Plan was to bring about a structural transformation of economy so as to achieve a high and sustained rate of growth, a progressive improvement in the standard of living the masses leading to the eradication of poverty and provide a sound material base for a self reliant socialist economy. Attention was concentrated on special programmes dealing with certain essential services to attain the goal of equality and weed out the gap between the rich and the poor. A great emphasis was laid on elementary education, rural health, nutrition, drinking water, provision for house sites for the poor, etc. etc.

To ensure speedy realization of distributive justice, education system was directed towards a set of goals and tasks, namely, (a) to guarantee to all equality of opportunity for education for improving the quality of life and their participation in the tasks of prompting the general well-being of the society; (b) to sensitize academic communities to the problems of poverty, illiteracy and environmental degradation through extension services and organized participation in poverty reduction and environment improvement programmes.

A close scrutiny of Fifth Plan shows that the total enrollment in elementary education has increased

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95. For detail see, Chapter IV, Supra, pp 318-319
96. See, Sixth Five Year Plan (1980-85), chapter XXI, p 252.
from 223 lakhs in classes I-VIII in 1950-51 to around 905 lakhs during 1979-80. The success of Fifth Plan lies in the fact that more than 59.75 lakhs of backward classes children were receiving stipends and scholarships at pre matric level annually and another 5 Lakh students at the post-matric level. Similarly, 13 pre-examination training centers had been established to coach candidates appearing in State Civil Services, and other subordinate services examinations and 9 centres for All-India Service and other Central Services. In 1979-80, in the age group 6-11, population of girls in schools was two third that of boys (about 66 percent girls against about 100.2 percent for boys.). In the age group 11-14 the number of the girls in the schools was half that of boys (28 percent for girls and 52 percent for boys).

The directive that "state shall promote with special care the educational and economic interests of weaker section of people and in particular, of the Scheduled Castes and Scheduled Tribes and shall protect them from social injustice and all form of exploitation" has been clearly reflected in Five Year Plans which had sought to raise the socio-economic level of all the people including Scheduled Castes, Scheduled Tribes and

97. Ibid. Chapter XXVI, p. 417.
98. Ibid. Chapter XXVII, p. 424.
other weaker section. A midterm appraisal of Fifth Plan shows that the provisions of funds for the welfare programme of the backward classes, rose from Rs. 39 crores in the First Plan to Rs. 327 crores in Fifth Plan and a total of Rs. 744 crores were spent till the end of 1978-79. It is revealed that out of Rs. 744 crores 48 percent was spent on educational schemes, 26 percent on economic schemes and rest on health, housing, drinking water supply and grants-in-aid to voluntary organization working amongst Scheduled Castes and Scheduled Tribes organizations.99. In the Fifth Plan for the first time a strategy for earmarking funds for the development of Scheduled Tribes was evolved. It is quite apparent from the Plan that the separate Sub-Plans were formulated covering 63 percent of the tribal population of the country, in sixteen States and two union territories. Pockets with 50 percent or more tribals in a population of ten thousand in a contiguous areas were included in the Tribal Sub-Plan Areas from 79-80 onwards raising the tribal population covered under the Tribal Sub-Plan to 70 percent at the beginning of Sixth Plan100.

The thrust of the programmes in the Fifth Plan was also on implementing effectively the measures contemplated in different labour welfare enactments and in

100. Ibid, p. 418
extending the coverage of the employees state insurance Scheme, the employee provident fund and family pension schemes. Several social security measures were brought into existence to act as an important redistributive measure benefiting the lower income class. The study shows that at the end of Fifth Plan it covered over 6 million workers in 408 industrial center, the total number of beneficiaries being 27 million. Similarly, the abolition of the Bonded Labour System by an appropriate legislation in 1975–76 was the first step in generating hopes for the working class. Efforts were taken for the social and economic rehabilitation of the freed bonded labourers by making available opportunities, for gainful employment including self employment. A centrally sponsored programme was started in 1978–79 to identify, release and rehabilitate the bonded labourers. More than 1,20,971 bonded labourers were identified and freed by the end of 1980 and out of this, 1,03,707 were rehabilitated by the various State Governments till Dec, 1980.

The appraisal of Fifth Plan shows that sustained efforts were made to promote health-care services which ultimately resulted in significant improvement in the health status of the country. Mortality rate declined from

27.4 in 1941-51 to an estimated 14.2 in 1978-79. The life expectancy at birth went up from 32 years as per 1951 census to 52 years during 1976-81. It is equally evident from the Plan that the Minimum Needs Programme was used for the first time as an instrument through which health infrastructure in the rural areas was expanded and strengthened. A sum of Rs 2803.79 crores was made available for the National Programmes of Minimum Needs to provide medical facilities to the down-trodden.

A review of Fifth Plan also shows that great attention was paid to help the homeless workers. Between 1950-51 and December 1979, 2.05 lakh houses were constructed for Plantation labourers and industrial workers and 3.36 lakh houses were constructed for other low income groups. Similarly, in the rural area, about 77 Lakh sites were distributed and about 5.6 Lakh houses constructed under the Rural House-Site-Cum-House Construction Scheme.

Like Fifth Five Year Plan, the basic task before the planners during Sixth Plan was to create an environment for the removal of miserable conditions of the weaker strata and bring progressive reduction in the incidence of poverty. It is revealed that Integrated Rural

103. Supranote 96, p. 366.
104. See, chapter IV Supra, pp. 321-322.
105. Supra note 101, p 390.
Development Programme was designed to develop self employment with a view to diversify the occupational structure. In order to bring massive transformation in occupational structure, it was stipulated that 33 percent of beneficiaries coverage should, as far as possible, be in the secondary tertiary sectors. The study of the Plan indicates that assets provided to the selected households were financed through a mix of Government subsidies and institutional credit on an average subsidy creditation of 1.2. The capital cost of the assets were subsidized to the extent of 25 percent for small farmers, 33-1/3 percent for marginal farmers, agricultural labourers and rural artisans and 50 percent for Scheduled Tribes.

The study conducted by the Programme Evaluation Organization of the Planning Commission, The Reserve Bank of India, Institute of Financial and Management Research Madras have concluded that the number of persons to have crossed the income level of Rs. 3500 was expected to be 40 percent, although additional incomes had accrued in the case of 55 to 90 percent of the beneficiaries. Although there had been many shortcomings in the Sixth Plan, the truth remained that there were witnessed strong positive gestures also. The evaluation

106. The Seventh Five Year Plan (1985-90), VoL. IV, Chapter II, P 52.
107. Ibid, P. 53
studies conducted by the various agencies of Planning Commission have brought forth the fact that the Plan had resulted in substantial additional incomes to a large number of beneficiaries and the creation of assets which finally resulted in a change in occupational structure. Against the target of 10.05 lakh youths to be trained during the Sixth Plan, 9.4 lakh youths were actually trained which accounted for 93.3 percent of the target. Members of Scheduled Castes and Scheduled Tribes accounted for 34.8 percent of the total number of persons trained. It was also noticed in the first three years of the Sixth Plan that the benefits under IRDP were not flowing to women in adequate manners. Therefore, a programme for Development of Women and Children in Rural areas (DWCRA) was introduced in September 1982 in 50 Blocks on a pilot basis with a view to increase their income and also to provide support services needed to enable them to take up income generating activities. The Sixth Plan outlay for this purpose was earmarked to the tune of Rs. 15.60 crores to be shared equally by centre and States. In addition, UNICEF assistance to the tune of Rs 5.40 crores was made available for this scheme. In all, 3308 Groups covering 52170 women beneficiaries were actually organised under the programme.

108. Ibid, P. 54
109. Ibid.
Similarly, National Rural Employment Programme (NREP) was started in October, 1980 and became a regular Plan programme from April, 1981. A major step was taken in 1983-84 when it was provided to subsidize the cost of food grains to be distributed under this programme. An outlay of Rs. 1620 crores was earmarked under this programme, out of which an outlay to the tune of Rs. 1280 crores was to be shared from 1980-81 onward equally between centre and States.

In order to accomplish the goal of distributive justice, Rural Landless Employment Guarantee Programme (RLEGP) was started from August 15, 1983 with a view to provide guarantee of employment for the rural landless so as to meet the growing requirements of rural economy. The target for employment generation in 1983-84 and 1984-85 was fixed at 360 million man days against which 26.18 million of employment actually generated. Besides RLEGP, land reforms were recognised to constitute a vital element in terms of and the poverty strategy. A land reform policy with a five-fold objectives was continued in

110. Ibid, p 55
111. Ibid.
112. Ibid, p 60
113. Ibid, p 62. The objective envisaged (i) abolition of intermediaries tenure, (ii) tenancy reforms, (iii) ceiling on land holdings and distribution of surplus land (iv) consolidation of holding, and (v) compilation and updating land records.
Sixth Plan. It is disclosed that 7.2 million acres of land had been declared surplus, 5.6 million acres had been taken possession of, and 4.4 million acres had been distributed till the end of Sixth Plan. Similarly, upto the year 1979-80, the consolidation area in the country was raised to the extent of 46.2 million hectares. Moreover, the total area consolidated during the Sixth Plan was 5.6 million hectares.

The appraisal of Sixth Plan shows that a variety of programmes taken up under different sectors to ameliorate the working conditions of the women and raised the economic and social status. To boost enrolment in the primary classes, early childhood education centres for children in the age 3-6 years were set up and adjuncts to the primary schools for the first time in Sixth Five Year Plan in rural and backward areas. The Scheduled castes and Scheduled Tribes girls continued to receive higher rates of postmatric scholarships as compared to boys. The enrolment of women under the adult education programme in December, 1984 was reported 2.89 million, the coverage being about 52 per cent of the total enrolment.  

The study further shows that Special

114. Ibid.
115. Ibid, p 323.
Components Plan for Scheduled Castes was formulated in the Sixth Plan. The Sixth Plan strategy for the socio-economic development of scheduled Castes, Scheduled Tribes and other backward classes was designed to ensure a higher degree of devolution of funds through the 'special Component Plans and through special central assistance than in the earlier Plans with the over all objective to see that at least half of them were provided substantial assistance to enable them to cross the poverty line. In regard to the Tribal Sub-Plan, a notable occurrence during the Sixth Plan was that the State of Sikkim was added to the States covered under the Tribal Sub Plan approach. 245 Tribal Pockets were identified for intensive development increasing the coverage of tribal population to 75 percent. The total lays contemplated in the Sixth Plan for the welfare of Scheduled Castes and Scheduled Tribes was to the tune of Rs. 9204 crore and the actual expenditure incurred rose to 11332 Crores.

The achievements during the Sixth Plan in relation to socio-economic development programme for the Scheduled Castes, Scheduled Tribes and other backward classes show that a lot was done to assist them to come on par with their fortunate brethren. 115 lakhs children

117. Ibid.
belonging to Scheduled Castes, Scheduled Tribes and other backward classes were awarded stipends and scholarships and other 113 lakhs children belonging to these categories were covered by other educational incentives like free supply of uniforms, stationery, books, etc.\(^{118}\). More than a lakhs Scheduled Castes and Scheduled Tribes students were given opportunity to receive post-matric scholarships.\(^{119}\) Similarly, about 3 lakhs Scheduled Castes, Scheduled Tribes and other backward classes were given assistance for sustained activities in production sector like agriculture, animal husbandry and cottage industries\(^{120}\). It is revealed that against the target of 8.65 million scheduled castes families to be brought above the poverty line, about 8.71 million scheduled castes families were assisted by the end of 1984-85. The plan further shows that against the Sixth Plan target of 2.70 million scheduled tribes families to be brought above the poverty line, 3.46 million scheduled tribes families received assistance to bring them above the poverty line.\(^{121}\) Another significant achievement was the distribution amongst scheduled castes families of land declared surplus under the ceiling laws.

\(^{118}\) Ibid, p 332.
\(^{119}\) Ibid.
\(^{120}\) Id.
\(^{121}\) Id.
8,06,143 acres of land declared surplus under the ceiling laws were distributed among 6,88,175 scheduled castes families during Sixth Plan period. 122

There is also witnessed a significant increase in the field of education. It is shown that enrollment in Secondary and Higher secondary levels increased from ten million to in 1979-80 to about 17 million in 1984-85. 124 The adult education programme was developed on a large scale for the age group 15-35 years to combat the problem of illiteracy among the rural poor. About 20 million adult illiterate were covered by these programmes during the plan period 125. Thus it may safely be said the expansion of educational facilities on such a large scale during the Sixth Plan helped to a great extent in achieving progress towards equality of educational opportunity and social justice. This is also clear from the fact that the annual non-plan expenditure on education from the Centre and States budgets had increased more than fifty times over the past thirty five year, from Rs. 114 crores in 1950-51 to more than Rs 6000 crores in 1984-85. 126

The study of Seventh Plan reflects that

122. Id.
125. Ibid,
126. Ibid, p 252.
earnest efforts have been put to rid this country off the ancient scourages of poverty, ignorance and disease. It is revealed that efforts to weed out poverty and inequality were doubled with a zeal to accomplish the goal of distributive justice. The primary objective of Seventh Plan was to secure the basic needs for food, clothing and shelter and provide sound health for all. The developmental programmes such as National Rural Employment Programme (NREP), Rural Landless Employment Guarantee Programmes (RLEGP), Integrated Rural Development Programme (IRDP), etc. etc. were encouraged to assist the poor and downtrodden classes. It is disclosed that an outlay of Rs.3363.78 crores was spent on these programmes during the plan period in the Central Sector to be matched by an equal amount by the States. The outlay under these programmes were to be based on the principle of selectivity geared to actual incidence of poverty in different states. The impact of these welfare programmes is that the number of poor as a percentage of total population was brought down to 30 percent in 1987 from 37 percent in 1983-84. The poverty ratio further declined from 37 percent to 26 percent.

127. See, Chapter IV Supra, p. 342.
129. Ibid, p 345.
between 1984-85 and 1989-90\textsuperscript{131}. Poverty alleviation programmes like Integrated Rural Development Programme, National Rural Employment Programme, Rural Landless Employment Guarantee Programme, etc. have helped to a large extent to accomplish the goal of distributive justice by mitigating the sufferings of the poor in the country. It is also a matter of great praise that the economy during Seventh Plan maintained the growth path established during Sixth Plan. Despite unfavourable circumstances in the economic and political spheres, the government has been quite successful in creating a social environment based on equity and justice.

The sustained efforts have also been made through various schemes to achieve the target of 100 percent coverage in elementary education. The result is that the literacy rate has shown an increase from 48.56 percent in 1981 to 52.11 percent in 1991. The breakup of 1991 census indicates 63.86 males literate against 39.42 female literate in country.

The Seventh Plan witnesses a continuous thrust towards the socio-economic development of Scheduled Castes, Scheduled Tribes and other backward classes. The norms under Integrated Rural Development Programme have been changed to ensure that these unfortunate brethren are

\textsuperscript{131} See, Madan, Sabnavis, "Seventh Plan: A Successful Story" in Financial Express, April 1, 1991, p.6
given their due share in the development programmes. During the Seventh Five Year Plan, the IRDP guidelines have specifically provided that at least 30 percent of the assisted families should be drawn from scheduled Castes and scheduled tribes. More over, the guidelines have been further revised since April 1990 in order to provide that at least 50 percent of assisted families must belong to scheduled castes and scheduled tribes\(^ {132}\).

Under Jawahar Rozgar Yojna 20 percent of the resources are specifically earmarked for Scheduled Castes and Scheduled Tribes for the development of their lands, including the ceiling surplus land allotted to them. Similarly, the interests of women have also been tightly secured during this plan period. Women have been accorded special treatment under the various rural development programmes to bring them into the mainstream of national life. The special scheme for the Development of Women and Children in Rural Areas (DWCRA) has been launched with a zeal to improve the status of women by increasing their access to employment, skills, training, credit and other sport services. Presently this scheme is being implemented in 187 districts with an expectation that more than 50 districts will be very soon covered under this scheme by the end of 1992. The number of women beneficiaries assisted under IRDP during the Seventh Plan is 34.33 lakhs. It is

\(^ {132}\) See, Civil Services Chronicle, December 1991, VOL.II, No. 7, p. 70.
also revealed that the percentage of the women beneficiaries assisted unto February 1991 is 29.67 against the target of 40 percent of the total target.\textsuperscript{133}

The performance of Seventh Plan discloses that Rs. 3057 crores were provided for the implementation of Integrated Rural Development Programme. Against the target of 160.38 lakhs, the families assisted during the Seventh Plan has been worked out to be 181.77 lakhs which is 113 percent of the target fixed on the basis of Annual Plans and 90.10 percent of the target fixed as per the Plan Document.\textsuperscript{134} The coverage of Scheduled Castes and Scheduled Tribes families ranges between 43 percent and 46 percent of the families assisted.\textsuperscript{135} Similarly, the coverage of women beneficiaries have been of the order of 18.89 percent.\textsuperscript{136} The strategy and philosophy of assisting the rural poor by providing assistance in the form of subsidy and credit for securing an income generating assets has also been found useful in all Evaluation Studies. It is revealed that substantial proportion of assistance (about 48.74 percent) under the development programmes has gone to scheduled castes and scheduled tribes families who are generally the poorest of the poor.\textsuperscript{137} It is a matter of great happiness that coverage of women under these welfare programmes has

\textsuperscript{133} Ibid, p 71.
\textsuperscript{134} Ibid, p 72.
\textsuperscript{135} Id.
\textsuperscript{136} Id.
\textsuperscript{137} Id.
steadily increased from 9.89 percent of the total families assisted in 1985-86 to over 30 percent during 1990-91. \(^{138}\)

Like Seventh Five Year Plan, the Eighth Plan has been brought into existence on April 1, 1992 with an attempt to exchew existing imbalances and address itself to tackle a vast majority of human problem arising out of poverty, unemployment, and social and economic inequalities \(^{139}\). The Eighth Plan envisages an annual Gross Domestic Product growth rate 5.6 percent with an over all outlay Rs 7,98,000 crores \(^{140}\). The Plan endeavors to provide a new orientation to planning consistent with the new thrust in economic policy to ensure justice to all in the light of the commitment envisaged in the Preamble Part III and Part IV of the constitution. The aim and objective of the Eighth Plan, is to identify thrust areas of development and achieve the desired goal. The special programmes are proposed to be initiated to take care of the poor and disadvantaged so as to engulf the gap between 'haves' and 'have-nots'.

The foregoing study discloses that like executive the judiciary has also played a vital role to cherish the goal of distributive justice. The functioning of the Indian judiciary shows that it has worked as an arm of distributive justice upholding the spirit of equality.

\(^{138}\) Id.
\(^{139}\) See, Chapter IV supra, p. 350.
\(^{140}\) Ibid, p 354.
that Indian longed for during colonial days. It can be safely concluded here that Indian judiciary has rightly realized, well in time, the fact that poor man has a right to have and state has duty to provide a system of distributive justice through social welfare schemes.

The working of the judiciary discloses the fact that it has shown an irrevocable trust to be a constructive partner in a joint venture with the legislature and executive. Even in the field of protective discrimination, it has stood to the test of time and performed a formidable task of judicial policy making in order to ensure that the protective schemes are confined strictly to the constitutional permissible objectives and methods. Though earlier phase of working frustrated the Governmental moves to actualize the goal of distributive justice, yet it is quite evident that the latter phase of the working of the apex court stands as testimony to the fact that the judiciary in India started articulating the view of equality in its practical sense. The court has rightly opined that the equality of opportunity guaranteed by the constitution was not only formal equality with fair competition, but "equality of results", which implied affirmative actions by the Government to translate the philosophy of distributive justice into action. it is clear

141. See, chapter V, Supra, p.384.
From the Thomas's case\(^{142}\) wherein restraints were imposed on the government and allowed it to patronize the least advantaged and suggested the imposition on the government of a new and onerous accountability to these disadvantaged, an accountability mediated through the courts. Similarly, K.C. Vasanth Kumar's\(^ {143}\) case is the container of the judicial opinion expressed by the apex court on the issue of reservation for examining the question of affording better employment and educational opportunities to Scheduled Castes, Scheduled Tribes and other Backward classes. The court has rightly realized the need to review the criterion for the identification of social and educational backward classes ignoring the caste label. The court emphasized that economic backwardness must be the criteria to be devised to identify the backward classes for the purpose of protective discrimination. The court sounded a note of caution to the effect that the benefit of the reservation should not be allowed to be snatched away by top creamy layer of the backward caste. The court went a step further and highlighted the need to re-determine the question of various castes, tribes and communities for the purpose of Articles 15(4) and 16(4) in the light of latest figures to be collected on various relevant factors and to re-fix the extent of reservation\(^ {144}\) It is also revealed

\(^{143}\) See chapter V supra, p.392.  
\(^{144}\) Ibid.
through numerous judicial decisions that trend of the judiciary in India has been to expand the philosophy of preferential treatment in scope with a view to cover wide array of Governmental schemes and programmes. The expansion of the philosophy of the preferential treatment by the judiciary in India has enabled the Government to extend financial assistance, free medical aid, educational and hostel facilities, free housing etc. to the unfortunate brethren to enable them to face boldly the competition of life.

Similarly, the foregoing discussion reveals that the judiciary in India has developed a great deal of sensitivity towards the welfare of Indian women especially in the last decade of Eighties. The judicial pronouncements make it quite clear that a patient hearing has always been given to the feeling of Indian women and provided satisfactory remedies to their sufferings. Many eye-opener judgments have been given by the apex court upholding the spirit of equality between man and woman. The positive attitude of the judiciary is also reflected in a famous case of Dattayaraya, wherein a special safeguard was pleaded by the judiciary in favour of

145. Ibid, p.386.
146. Ibid.
148. Ibid
149. Supranote 143, p.414.
the Indian women. The court held that as a result of joint operation of Articles 15(1) and 15(3) the state could discriminate in favour of women against men, but it may not discriminate in favour of men against women. In the similar spirit, the validity of sec. 5(1) (v) (9) of Bihar Panchyat Simities and Zila Parishad Act, 1961 was upheld with the justification that conferment of right to participate in a political sphere was essential for women to bring them on par with the status of men in the society. Similarly, the court has shown quite an encouraging attitude in affording preferential treatment to women in the area of public employment. The court has also defended the cause of the women and shielded the proprietary rights and rightly rejected the old philosophy of matrimonial home and stridhan becoming a joint property of the two spouses as was propounded earlier by the High Court in Vinod Kumar vs State of Pubjab. Now wife has been declared the absolute owner of her stridhan and it has been made an indispensable duty of the husband as to keep it as trustee.

A strong ray of hope appears to have been built up in favour of Muslim women by the landmark decision of the Supreme Court in Shah Bano's case wherein the court held that Muslim husband was liable to provide maintenance for

150. See, chapter V, supra p.414.
152. Ibid, p.416.
153. AIR, 1982 I&H 372.
154. Supranote 152, p.418.
divorced wife who was unable to maintain herself. The impact of this case is that the old philosophy contained in the Quran has been done away with and efforts have been made to obviate the chances of exploitation of woman by the cruel husband. He has now been subjected to statutory obligation to maintain his wife irrespective of the provisions of personal law to which she belongs.  

The judiciary in Indian is also awfully busy in eradicating the problem of dowry deaths and has on several occasions held the accused guilty of murder for the death of bride caused due to burning. The need to find out immediate solution to solve dowry deaths problem has been voiced many times by the judiciary with view to take effective steps in this direction.

The judiciary has also played quite a significant role in promoting the child welfare. It has rightly viewed that first priority in the scale of social justice should be given to the welfare of the children. The court has laid emphasis on the fact that it is the constitutional duty of the state to abide by the constitutional standard and provide at least the minimum conditions to uphold child’s dignity. The State Governments have been directed by the court from time to time to take concrete steps for the welfare of the children so as to

155. Ibid.
improve their economic and social status in the light of philosophy contained in our National Character. The approach reflected in several judicial decisions shows that earnest efforts have been made by the judiciary to uphold the dignity of the children born to prostitute. The State Governments have been directed by the court on many occasions to the effect that accommodation in hostels and other reformatory homes should be adequately available to help regression of these children from their mothers living in prostitute homes. The positive judicial trend may also be seen in Laxmi Kant Pandey vs Union of India. The court in this case expressed the positive viewpoint in the following words: "It is obvious that in a civilized society the importance of child welfare cannot be over-emphasized because the welfare of entire community, its growth and development, depend on the health and well-being of its children. Children are a supreme important national assets and the future well-being of the nation depend on how its children grow and develop."

The role of judiciary in response to agrarian reforms seems to have remained controversial one. Sometimes, the courts found themselves in unpleasant

157. See chapter V, supra p.423.
159. See, chapter V supra, p.430.
160. Ibid.
situation of having to invalidate legislative enactments on important matters of public policy. Sometimes this created stir in the public and brought the very doctrine of judicial review under heavy fire. On the other hand, the Government responded the judicial verdict by initiating constitutional amendments. Frankly admitting, the right to property as an instrument of distributive justice remained the bone of contention between the Supreme court and Parliament for quite a long time. The Supreme court was even accused of weighing a road-block in the way of distributive justice. All this ultimately led to enacting the constitutional amendments with a hope to realize the goal of socio-economic transformation as envisaged in the constitution. Ninth Scheduled was added to the Constitution to protect land reform legislations from judicial attack. Fourth Amendment was brought to avoid the interference of the court and generation environment for the establishment of socialistic pattern of society and ensure to the people at large economic and social justice intended to by the founding fathers of the constitution. The study also reveals that the subsequent amendments with regard to the right property were necessitated to weed out the gap between rich and the poor. The sum and substance of these amendments is that the legislators deemed it

162. Ibid.
163. Ibid.
164. See, First Amendment Act, 1951.
always necessary to avoid the interference of the court and create an environment of socialistic pattern of society and secure to the people at large socio economic and political justice.

However, there is witnessed a swift change in the attitude of the Indian judiciary especially after 1973. The court voiced a noble philosophy to the effect that property justifiably ought to be conditioned in the context of the demand of the society at large. The court thus upheld validity of Twenty-Fifth Amendment Act, 1971 and allowed precedence to the Directive Principles Contained in Article 39(b) and (c) over Fundamental Rights to discourage concentration of ownership of material resources and the means of production. The court philosophized that right to property cannot remain an absolute right at least when the majority of the people live in chains of poverty. The court held that in an organised society no right can be absolute, right of one must be consistent with the right of the others. When it is not so the State has to step in and to correct the imbalance and disharmony. Similarly, the spirit of distributive justice received a judicial encouragement when the apex court held

166. Ibid at 1970.
167. See, Chapter V, Supra, p. 445.
that Directive Principles plays a significant role in the upliftment of the society. To reiterate Bhagwati, J. "Directive Principles impose an obligation on the State to take positive action for creating socio-economic conditions in which there will be an egalitarian social order with social and economic justice to all so that individual become a cherished value and the dignity of individual living reality not only for a few privileged persons but for the entire people of the country. They are intended to be operated forcefully for the millions of our poor and deprived people who do not have even the bare necessities of life and are living below the poverty line."168 The court also realised the fact that equality clause in the constitution does not speak mere formal equality but embodies the concept of real and substantive equality which strikes at inequalities arising on account of vast sound and economic differentials and is consequently an essential ingredient of socio-economic justice. The foregoing study also reveals that the agrarian reform legislations have also been upheld in early nineties in many landmark decisions169. However, the court found it difficult to conclude that deletion of Art 31 from Part III of the constitution, the Parliament had intended to confer absolute right on the legislature to deprive the citizen of

168. See, Chapter II, supra V, pp 446-447.
his property by mere passing of a legislation without complying with the requirement that the deprivation was for a public purpose and on payment of amount which was not illusory. To epitomize, we may safely conclude that the philosophy of apex court in its earlier days of working remained highly legalistic and ignored the spirit of agrarian reforms with the result the the movement towards the realization of distributive justice was badly shattered. However, a sea change in the judicial philosophy came into being when the court started supporting the Supplementary Theory of treating Party III and Part IV as fundamental.

The judiciary in India has also played a significant role to promote the interest of the working class in India. It has successfully modified the traditional law relating to the relationship between the employer and the employees. The notion of 'higher and fire' has been done away with. The study of various judicial pronouncements shows that the principle of 'equal pay for equal work' has been interpreted in the light of the goal of the welfare state envisaged in the Preamble, Part III and Part IV of the constitution. The judicial philosophy contained is the Randhir Singh vs Union of India.

171. Ibid, p 452.
172. Ibid, p 454.
D.S. Nakara vs Union of India\textsuperscript{173}, and Dharward District, P.W.D.L.W.D Association vs State of Karnataka\textsuperscript{174} stand as testimony to the fact that courts in India have sensitized themselves to the sufferings of the working class and endeavored to safeguard them from all kinds of exploitation at the hands of their mighty employer. It is further clear that the court has laid emphasis on the economic equality and the equal distribution of wealth. Justice Desai has rightly opined the principal objective of the socialistic state was to weed out inequalities in income and status and provide a decent standard of life to the working class and secure them from cradle to grave.\textsuperscript{175} The judiciary has gone a step forward by obligating the state to strive hard to secure that the health and the strength of the workers, men, and women and children of tenderage are not abused and the citizens are not forced by economic necessity to enter avocations unsuited to their age and strength. The court has from time to time put the government under a constant pressure and directed the Government to pay salary to the daily rated and monthly rated employees at the rate equivalent to the minimum pay in the pay scale of regular employees.\textsuperscript{176} The judiciary has asked the State Governments to observe the labour welfare legislations strictly. The

\textsuperscript{173} Ibid, p 456.
\textsuperscript{174} Ibid, p 458.
\textsuperscript{175} Ibid, p 456.
\textsuperscript{176} Ibid, p 458.
court, with all behest at its command has always held that the government and its officers must always see whether the poor and down-trodden labourers are getting their social and economic entitlements; or whether they are continuing to remain the victim of deception and exploitation at the hands of the strong and whether social and economic justice has become meaningful reality for them or it has remain merely a teasing illusion and promise of unreality. 177

The foregoing study also make it crystal clear that the Supreme Court in India in recent times has engaged itself in waging war to actualize the goal of distributive justice. It is quite apparent that the courts in India have given up the neutral principle of 'Mechanistic Jurisprudence' and activity undertaken the task to reconstruct Mother India in tune with the philosophy of distributive justice enshrined in our national character so as to provide justice to the poor, unprivileged and deprived section of the society. Social Action Litigation Movement, Free Legal Aid Movement and the emerging concept of the Lok-Adalat are some of the glaring examples of activists role being played by the Indian Judiciary. Social Action Litigation concept has been evolved as a matter of a new device for the purpose of providing access to justice to a large masses of people who

177. Ibid, pp 459-462.
are denied their basic rights.\textsuperscript{178} The court has been continuously entertaining writ petitions and even letters from public spirited individuals seeking judicial redress for the benefit of persons who have suffered a legal wrong or whose constitutional or legal right has been violated but who by reason of their poverty or socially or economically disadvantaged position are unable to approach the court for relief. The study reveals that undertrials, prisoners, pavement dwellers, patients, bonded and immigrant labourers, children, women, unorganised groups have really been benefited by the strategy of Social Action Litigation Movement.\textsuperscript{179} The judiciary has been quite bold to direct the Central and the State Governments to ensure observance of various social welfare and labour laws enacted by the State for the purpose of securing to the workman a life of basic human dignity. Under this strategy, the court has issued various directions, including rehabilitation of freed labourers, to the Central and State Governments with a zeal to ensure justice-socio-economic and political to the down-trodden section of the society.\textsuperscript{180} Similarly, by resorting to this device, the judiciary has extended help to improve the child welfare by expounding different schemes to promote their interest.\textsuperscript{181} Directions have also been issued to the Governments from

\begin{footnotes}
\item[178] See, Chapter V supra, pp 464-470.
\item[179] Ibid, pp 465-467.
\item[180] Ibid, p 468.
\item[181] Sheela Barse vs Union of India, A.I.R. 1986 SC. 1773.
\end{footnotes}
time to time to find solution to the problem of 'rootless' and 'roofless' children. More so, the court has earnestly endeavoured to diagnose the reason of continuing social malaise and pointed out the responsibility of certain agencies of the administration suggesting that they should strictly adhere to the child-welfare legislations and execute them with full devotion and sincerity. The judicial trend, therefore, reveals that the courts in India have sensitized themself to the need of doing justice to the unfortunate brethren to whom justice has been denied by cruel and breathless society for ages together.

Similarly, it is also clear from the foregoing study that Free Legal Aid Movement is the brainchild of the Supreme Court of India. To be true, the strong move for Free Legal Aid in recent year is an outcome of the emergence of socio-economic philosophy and welfare state concept. That is why the judiciary in India has even gone to the extent of holding that State cannot be permitted to deny this relief even on the plea that state has no adequate financial resources to incur the necessary expenditure needed for improving the administrative and judicial apparatus with a view to ensure a free legal service to those who need it most. It is thus law of the land that state cannot avoid its constitutional obligation of providing legal aid to the poor by pleading

182. See, Chapter V, pp. 474-476.
administrative inability. ¹⁸³

Similarly, the modern version of the Lok-Adalat in India has emerged as a matter of strong concern to find out original solution to tide over colossal problem of arrear of cases pending in various courts in our country. The true objective of the philosophy of Lok-Adalat basically is to restore the old but rational method of resolution of disputes through peaceful means and revitalize this dynamic device to function as the most effective weapon to the prevailing Indian social and economic conditions. The device of Lok-Adalat is thus being used as a strategy evaluated intellectually to reduce the time in rendering justice and clear the astonishing backlog of cases. The survey of the working of the Lok-Adalat shows that these are actively busy in settling cases at pre-trial and in-trial level. The cases decided by the Lok-Adalat relate to accident claims, matrimonial reliefs, small claim for wages etc. etc. It is revealed that the Lok-Adalats in India have so far been successful to decide 24,00,000 cases till June, 1990 awarding total compensation to the tune of Rs 169,10,65,025 ¹⁸⁴ The tremendous success shown by the working of Lok-Adalat has ultimately paved path for the Indian Parliament to bring a new legislation captioned "The Legal Services Authority Act, 1987".

It can thus be safely concluded that Indian

¹⁸³. Ibid.
¹⁸⁴. Ibid, p. 480.
judiciary has now given up the role of 'mechanistic Jurisprudence' and has become the court for the poor and struggling masses deeply sensitized to the needs of 'have nots' to whom justice has always been a cry in wilderness. It is hoped that Indian judiciary will certainly abandon its traditional role and prove itself to be a strong arm to accomplish the goal of tripartite justice, that is social, economic and political and function as strong agent to translate the philosophy justice into action.

(II) Suggestions

To sum up, the legislative, executive and judicial measures, taken from time to time in the past forty-five years clearly indicate that State always regarded the philosophy of distributive justice as the principal instrument to ensure justice-socio-economic and political to poor, bonded labourers, working class, women, children, down-trodden, Scheduled Castes, Scheduled Tribes, backward classes, etc. An appraisal of these measures reveals that we have succeeded satisfactorily to a great extent to ensure justice to these segments of Indian society. Moreover, sharp rise in Gross National Product and per capita income are the indicators of distributive justice.

However, despite all these measures, the truth remains that millions still continue to live in the shackles of poverty. Even today more than 29.7 percent of the total population live below poverty line. Justice for them appears
to be a cry in wilderness. Constitution seems to have belied them as it has in no way reached them to even serve their basic needs despite the fact that constitution has been in existence for more than forty-five years. It is thus deadly sure that time will not wait for us. Millions who demand food, cloth, shelter, and good living standard are pressing for action. We must be aware that the repression of such failure would be far-reaching. What we find practically after four-and-a-half decade of independence is that we have enough of legislative, executive and judicial measures but not the real momentum to implement them that is why the gap between rich and poor, employer and employees and advance and backward section is becoming wider and wider. We are yet to devise the perfect ways and means in which the fruits of our success and profit could be utilized in alleviating the poverty and lack of adequate means of livelihood.

No doubt, the three instrumentalies of the government—legislature, executive and judiciary have played a significant role in translating the philosophy of distributive justice into reality but to make them more useful, purposeful and meaningful to the illiterate, ignorant and the helpless poor, the following suggestions deserve immediate attention:

(i) There is a deep felt need of right kind of leadership. The task of revolutionary leadership is to channelise the urges of people and give them proper directions. There is a need to go to the people, educate them and organise them to
be involved in national re-construction programmes. Legislators, bureaucrats, judges, social scientists, social philosophers, jurists, lawyers, law students, researchers and other must mobilize their potentiality to achieve the goal of distributive justice.

(ii) There is a great need for a radical change in the basic thinking of the legislature, executive and the judiciary. The Government must understand that violence is brewing in the very heart of the people. The anger of the people is reaching white heat on account of their misery that is growing day by day. It is not now time to pay lip service to accomplish the goal of distributive justice but it is to be the basis of all legislative executive and judicial actions. This calls for a clearer understanding of the specific socio-economic conditions of India today and the relentless will to wipe out the rich-poor gap and to inject the spirit of distributive justice in the very productive process. The aim envisioned is within our grasp if the three instrumentalities keep their language, feel their heart beats and ascertain what they need in the context of the constitution.

(iii) The machinery of the Government engaged in the execution of welfare legislations must be geared up to accomplish the objectives of the distributive justice. The need is to generate the political will at top, popular pressure at the bottom and the administrative machinery in between. Today, we require nothing more than a set of honest
men who are really committed to the cause of the poor. The zeal to serve must come from the inner compulsion rather than by the imposition of constitutional blinkers.

(iv) The Government must harness resources, gather literacy power, acquire mobility in target areas so as to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities. In addition to these, other techniques such as pamphlets, newspapers, advertisements, television shows, legal aid camps, seminars, and even "hot-line" programmes, can play a useful role in the spread of awareness about welfare programmes designed for the upliftment of the poor segments of the society. There is a dire need to supervise the working of the Integrated Rural development programme, Minimum Needs programmes, Rural Health Programmes, Elementary Education Programme, Nutrition and social welfare programmes, NREP and RLEGP smoothly. The entire work requires inter-departmental co-ordination. The officers entrusted with these programmes should seriously look to the aspect of supervision as co-ordinating officers. There is a dire need to fight against poverty on various fronts—legal, social, economic and psychological one. Time has now come to take a fresh look not only at the basic strategy but also the programme contents of the poverty alleviation programmes to ensure a faster reduction in poverty line and enable them to come on par with their fortunate brethren.
(v) There is a dire need to implement land reform legislations effectively. Enactment of progressive measures of agrarian reform legislations and their effective implementation call for hard political decisions. No tangible progress can be expected in the absence of hard political decisions. It is revealed that the worst aspect due to which the operation of the agrarian reform legislations have suffered in the past forty-five years, is the management at lower level of the administration. The benefits of these legislations have been lost through ineffective implementation. Therefore, what is needed today is to gear the management at the lower level of administration to ensure efficient operation of the Acts and statutes designed to benefit the poor tenants who remained under continuous exploitation at the mighty hands of their land lords. Sincere efforts are thus required to strengthen the entire gamut of revenue machinery to initiate measures updating the land records by adopting a time bound programme. Similarly, time is ripe for the judiciary to realise constitutional obligation to expedite the disposal of land ceiling and tenancy cases lying pending since long. Courts must come forward to champion the cause of the poor and use land reform legislation as the weapon of distributive justice.

(vi) There is a need to implement the labour welfare legislations vigorously in consonance with the spirit contained in our National charter. Efforts must be done by the government to ensure that the employers should undertake
the responsibility of providing various kinds of welfare activities in pursuance of the labour welfare legislations designed from time to time for their betterment. There is a need to enforce with uniformity certain essential conditions to make the working conditions quite favourable. The number of hours of work, non-employment of women and children in hazardous work at odd hours, measure relating to health and safety of the workers, sanitary arrangements, bathroom and drinking water facilities etc., which are all now included in the labour legislations, need to be implemented by the Government with full command at its behest. Similarly, the problem of bonded labour has to be fought at various fronts—legal, social, economic and psychological. We have to warn the exploiters that there is no place for bonded labour in a socialistic and democratic India. We have to educate the exploited ones to organise themselves so as not to succumb to pressure tactics. We have to tell them convincingly that laws on their side, always ready to help them. The only way to overcome it is to make them aware of their statutory rights through mass education. It may also be suggested to prepare a team of sincere social workers and entrust them with the job acquainting the ignorant people with the legal provisions of the Acts passed from time to time for their benefits. The Government should also start a fresh move for the identification of the bonded labourers among the population below povertyline and identify and release such bonded labourers. The rehabilitation process must be designed on
practical day to day experience. Rehabilitation, both physical and psychological, is needed to the larger interest of the bonded labourers. The Government should endeavour to make improvement in the labourer's living conditions by raising their capacity of earning. It must be seen that the liberated bonded labourers must get nothing less than the minimum age and living wage. Moreover, violation of labour welfare legislations must be viewed with strictness and errant employers must be punished severely. It is also needed that the freed bonded labourers are provided with full economic support to remove the hunger of longer and relapse into bondage. The Surplus land should be distributed to the liberated bonded labourers on priority basis. Equal distribution of land may certainly help to rehabilitate the liberated bonded labourers.

(vii) There is a need to revamp the entire reservation policy. The need is to change the entire mechanism of protective discriminate to be used as an instrument of distributive justice. It is the duty of the politicians to put sincere efforts to ascertain whether reservation has hitherto benefited the community as a whole or only profited a chosen few. There is a need for the government to conduct an analytical study of the real impact of reservation policy to ensure distributive justice in its true spirit. A wise thing would be to make an accurate survey on economic basis. The conditions of our country demand that economic backwardness must be followed as the criterion to draw out a
dividing line between the upper crust and the lower crust of the reserved categories. Benefits of the reservation must not be allowed to those who have already improved their lot through reservation and have come on par with the advanced section of the society. Economic status of the family must be the yardstick to judge it whether it has come on par with other section of the society. It is a high time that determination of backwardness should be based on social researches, collection of data and objective assessment. Need is to insist upon the 'means test' so that the better off sections of the reserved categories are prevented from taking benefits earmarked for the less fortunate brethren of the Scheduled categories. We must move towards reducing the numbers who require preferential treatment rather than going on enlarging them. Every one who has once availed himself of the benefits of reservation should not be allowed to get it again and again. It should be ensured that the benefits are not monopolised by those who do not deserve that.

(viii) There is also a dire need to create an environment for the Indian women to join the mainstream of national life. Education is the master key to the uplift of the women. It is the education which can transform the de jure equality into de facto equality. Therefore, the government must put sincere efforts to increase literacy amongst women in India. Facilities like hostels, free uniforms, books, stationery, and stipends should be provided to the poor girls as incentive in order to receive education with ease and interest.
Participation of women in economic activities, and making them full partners in the productive process is another significant factor which can counteract the deep foundation of inequalities of sexes and help in the eradication of many social evils like dowry system, prostitution, etc. There is also a dire need of adequate representation of women in elected bodies. To enhance the status of women and remove the gap between man and woman, the adequate seats should be reserved for women in elective bodies not only at local levels but also in legislative Assemblies and parliament. It is also equally desirable that Government should put efforts to create awareness of rights among the ignorant Indian women. In order to spread awareness amongst them, 'know your right' campaign may be launched with the help of teachers, law students, lawyers, judges, jurists, voluntary organisations, etc. In addition, mass media can play a great role in making women not only aware of their rights but it can also sufficiently motivate them to assert themselves strongly wherever there is infringement of their rights. Frankly speaking, things will not change unless the women of the country themselves have a will to change things. It is a well established fact that any policy or movement for the emancipation and development of women has to form a part of total movement for removal of inequalities and privileges won by such actions are to be shared by the entire women population and not to be monopolized by a minority. This is the only way to accomplish the dream of distributive justice.
in favour of the Indian women who has remained a plaything in
the hands of men for centuries together.
(ix) There is a need to see that child welfare programme
should find a prominent part in our National Plans for the
development of human resources, so that our children grow up
to become robust citizens, physically fit, mentally alert
and morally healthy, endowed with the skills and motivations
needed by the society. Equal opportunity for development to
all children during the period of growth should be our aim,
for this would serve our purpose of reducing inequality and
ensuring social justice. There is a need to cover all
children by a comprehensive health programme. The state
should take steps to provide free and compulsory education
for all children up to the age of 14 for which a time-bound
programme must be drawn up consistent with the availability
of resources. Special efforts must be made to reduce the
prevailing wastage and stagnation in schools, particularly in
the case of girls and children of weaker sections of the
society. To ensure equality of opportunity, special
assistance should be provided to all children belonging to
the Scheduled Castes and Scheduled Tribes and those belonging
to the economically weaker sections both in urban and rural
areas. Children who are socially handicapped, who have become
delinquent or have been forced to take to begging or are
otherwise in distress should be provided facilities for
education, training and rehabilitation and must be helped to
become useful citizens. There is a need to safeguard them
against neglect, cruelty and exploitation. No child below 14 years should be permitted to be engaged in any hazardous occupation or be made to undertake heavy work. Facilities also must be provided for special treatment, education, rehabilitation and care of children who are physically handicapped, emotionally disturb or mentally retarded. The Government must formulate special programmes to spot, encourage and assist children, particularly those belonging to weaker section of society. In order to ensure justice to the children, priority should be given while formulating programmes to: (a) preventive and promotive aspect of child health; (b) nutrition for infants and children in the pre-school age along with nutrition for nursing and expectant mothers; (c) maintenance, education and training of orphans and destitutes children; and (d) care, education, training and rehabilitation of children.

(x) Justice to the poor can be possible only when the move of Free Legal Aid is made a success. Structural changes in our working methodology are necessary to make this move a grand success. The machinery of the Government engaged in the execution of Free Legal Aid Movement need to be geared up from bottom to top. The Government should accept the Free Legal Aid as constitutional obligation and make available adequate funds for providing such legal aid to the poor persons and persons of limited means. The need of the day is that the concept of legal aid should be widened so as to embrace within its ambit payment of court fees, process fees,
expenses of witness charges payable or incurred in connection with legal proceedings, supply of copies of judgment and preparation of appeal papers. We must spread legal literacy by educating poor people of their basic rights. Active participation not only of the practicing lawyers, but also active role and participation of the courts, the administrators, law teachers, the senior law students, the trained social workers and public at large is also needed utmost. The intense efforts on the part of the private voluntary organization are also needed badly to encourage Legal Aid Movement in the country. Village Panchayats may also play a vital role in taking justice to the threshold of the persons of limited means residing in the far-flung areas of the country. What is required is that new skills in Judicial Administration, radical reforms of processual law, restructuring of administrative machinery may be the agenda of legal aid programme. The Government must encourage Lok-Adalats Movement to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities. Besides this, we have many other things to do. Conciliation procedure on the systematic basis, Mobile Courts, Family Courts, Children Courts, Summary Trials, simplification of Civil and Criminal Procedure, settlement of dispute by Lok-adalats may be of great assistance to render justice to the poor who are generally deprived of this opportunity for want of economic means.

(xii) We need to gear up the Antyodaya movement in India for
the reason that our social structure today is showing many dangerous cracks. The number of the poor, the unfed and the unclothed is increasing fastly. It appears that our planning process has gone haywire somewhere. The reality is that after independence, the Government planning has been based heavily in favour of the rich people whereas priority should have been given to the basic needs of the poor masses. The result is that the concentration of economic power has increased many fold with the result that persons below poverty line have increased from 18 crores to 36 crores. The thousands of millions spent on development have mostly benefited only a small section of people. The common people have yet to be provided even with the basic necessities. The intention of the makers of the constitution to make India a welfare state has been totally and conspicuously flouted with the result that the gap between the privileged minority and the underprivileged majority is aggravating. In these circumstances the Antyodaya Movement—Gandhian concept has come to be considered as an answer to tackle the problem of the poorest of the poor. Through this programme it is expected that the fruits of our planned development will reach to the poorest of poor without any distinction of caste, race, colour and religion as the selection of the beneficiaries under this programme is solely based on the extent of poverty of the family. What is need is that Government must make sincere efforts to identify families strictly in accordance with the criterion evolved by the State. Lowest of the low must be the
rule to identify families to be included in the list of beneficiaries under the programme. This is necessary to ensure that the fruits of welfare programmes reach to the people for whom they are meant. For this we need self-sacrificing men with muscles of iron nerves of steel with a heart of oceanic feelings for the amelioration of the suffering of these helpless poor. The success of Antyodaya programme depends not only on sound structure and efficient organization but on the quality of bureaucracy connected with them. The only bottleneck inhibiting the uplift of the poorest of the poor is the absence of devoted, upright and scrupulous officials who can work with them quite selflessly. What is more required is that there is a need to bring about a change in the mental outlook of the beneficiaries, to prepare them to take active part in selfless programmes and to imbibe in them the ambition of higher standard of life. This task can be accomplished with the help of voluntary agencies. The need is to go from door to door and make them understand the real conditions. No Antyodaya programme can succeed unless the beneficiaries are educated. Besides this, there is a dire need of people’s participation. Attempt should be made to involve people at all stages of planning, its execution and evaluation. Efforts should be made to find out what they really want, what their needs are and what types of activities they would be interested in. The present mode of planning will have to be replaced by one that
concentrates on meeting the basic needs of the poorest of the poor. Decentralization of planning, state power and authority are a pre-condition for the success of this programme. Periodic evaluation of the progress of Antyodaya programme is badly needed. This task can be entrusted to social scientists who can conduct unbiased research and submit report to the Government. The Government must frame policies and programmes in accordance with facts and figures collected by the social scientist from the society. The families who have crossed the poverty line must be deleted from the list and new families must be taken up under this programme so that all get opportunity to come on par with the people who have already crossed the poverty line.

To sum up, the goal of distributive justice envisioned by the wise founding fathers of our constitution is within our grasp if three instrumentalities keep the promise. There is a great need for the radical change in the basic thinking of the Legislature, the Executive and the Judiciary for making philosophy of distributive justice more efficient. Whatever the constitution may or may not provide the actualization of the goal of distributive justice depends solely upon the men who administer it. After all constitution, like a machine is a lifeless thing. It acquires life because of men who control it. M.V. Pylee has rightly remarked, "A constitution when written does not breathe. It comes to life and begins to grow only when human elements
get-together and work it." Similarly, Dr. Ambedkar rightly observed: "I feel, however good a constitution may be it is sure to turn out bad because those who are called to work it, happens to be a bad lot. However bad a constitution may be, it may turn out to be good, if those who are called to work it, happens to be a good lot. The working of the constitution do not depend wholly upon the nature of the constitution. The constitution can provide only the organs of the State such as the Legislature, the Executive and the Judiciary. The factors on which the working of those organs of the State depends are the people, they will set up as their instruments to carry out their wishes and their politics". Thus what Indian needs today to accomplish the goal of distributive justice is nothing more than a set of honest men who will have the interest of the country before them. In the words of N.A. Palkhiwala:

"God, give us men. A time like this demands;
Strong minds, great hearts, true faith and ready hands;
Men whom the lust of the office does not kill;
Men whom the spoils of the office cannot buy;
Men who posses opinions and a will;
Men who have honour; men who would not lie;
Men who can stand before a demagogue and damn his treacherous flatteries without winking;
Tall men, sun-crowned, who live above the fog;
In public duty and in private thinking."