1 INTRODUCTION

No concept has been more revolutionary than the concept of equality. If at all any other concept has been over powering, it is the concept of liberty and together they create havoc for dictatorship, terror for feudal lords and capitalists, enthusiasm for social revolutionaries and sense, of life among the vast majority of people who suffer it constantly below the poverty line. It is this urge that has prompted this author to choose this subject for investigation. In fact Indian poverty is so persistent in its tendency, so consistent in its degrading impact on masses of the people and so the Indian elite has shown such a spontaneous relevance on such a critical subject that the subject itself has chosen its researcher and researcher is an object of the subject.

1.1 Design of Research

1.1.1 Identification of Problem

Equality’ is a contested concept. The terms "equality", "equal," and "equally" signify a qualitative relationship. ‘Equality’ (or ‘equal’) signifies correspondence between groups of different objects, persons, processes or circumstances that have the same qualities in at least one respect, but not all respects, i.e., regarding one specific feature, with differences in other features. ‘Equality’ needs to thus be distinguished from ‘identity’ -- this concept signifying that one and the same object corresponds to itself in all its features: an object that can be referred to through various individual terms, proper names, or descriptions. For the same reason, it needs to be distinguished from ‘similarity’ -- the concept of merely approximate correspondence. Thus, to say e.g. that men are equal is not to say that they are identical. Equality rather implies similarity but not ‘sameness.’ Our first task is therefore to provide a clear definition of equality in the face of widespread misconceptions about its meaning as a political idea.

‘Equality’ can be used in the very same sense both to describe and prescribe, as with "thin": "you are thin" and "you are too thin." The approach
taken to defining the standard of comparison for both descriptive and prescriptive assertions of the concept of equality is very important. In the case of *descriptive* use of equality, the common standard is itself descriptive, e.g. two people weigh the same. A *prescriptive* use of equality is present when a prescriptive standard is applied, i.e., a norm or rule, e.g. people ought to be equal before the law. The standards grounding prescriptive assertions of equality contain at least two components. On the one hand, there is a descriptive component, since the assertions need to contain descriptive criteria, in order to identify those people to which the rule or norm applies. The question of this identification -- who belongs to which category? -- may itself be normative, e.g. to whom do the U.S. laws apply? On the other hand, the comparative standards contain something normative -- a moral or legal rule, in the example, the U.S. laws -- specifying how those falling under the norm are to be treated. Such a rule constitutes the prescriptive component. Sociological and economic analyses of (in-)equality mainly pose the questions of how inequalities can be determined and measured and what their causes and effects are. In contrast, social and political philosophy is in general concerned mainly with the following questions: what kind of equality, if any, should be offered, and to whom and when?

‘Equality’ and ‘equal’ are incomplete predicates that necessarily generate one question: equal in what respect? Equality essentially consists of a tripartite relation between two (or several) objects or persons and one (or several) qualities. Two objects a and b are equal in a certain respect if, in that respect, they fall under the same general terminus. ‘Equality’ denotes the relation between the objects that are compared. Every comparison presumes a *tertium comparationis*, a concrete attribute defining the respect in which the equality applies -- equality thus referring to a common sharing of this comparison-determining attribute. This relevant comparative standard represents a ‘variable’ (or ‘index’) of the concept of equality that needs to be specified in each particular case; differing conceptions of equality here emerge from one or another descriptive or normative moral standard. There is another source of diversity as well: As it is argued, various different standards might be used to measure inequality, with the respect in which people are compared remaining constant. The difference between a general concept and
different specific conceptions of equality may explain why according to various authors producing ‘equality’ has no unified meaning -- or even is devoid of meaning.

1.1.2 Objectives of the Study

1. To explore the real concept of equality
2. Whether the concept of equality is emerged from ‘dharma’?
3. Comparative study of equality within the different countries of the world
4. To know the quest for equality among human being
5. To enquire, what is equality among unequal?
6. To identify, what is the Indian Constitutional aspect of equality?
7. To evaluate, working of reservation policy in India
8. To study the judicial approach in India

1.1.3 Hypothesis Formulated

For the purpose of the research the researcher has framed following hypothesis:

1. That the concept of equality has been deeply rooted.
2. From the ancient time the concept is merged with the concept of supreme ‘dharma’.
3. That Indian Constitution has aptly covered the concept vide A. 14
4. The specific legislations such as Equal Remuneration Act, Minimum Wages Act, etc have been framed in line with the concept of equality vide A. 14 of Indian Constitution
5. However, in spite of various legislative provisions much is required to be done
6. Child Labour, Women Empowerment etc are still some of the grey areas which need to be taken care of.
7. Even legislature who has came to the rescue to the down trodden, there is still a long way to go.
1.1.4 **Methodology**

For the purpose of the research the researcher has followed purely doctrinal mode of research. Preliminary data has been collected from the enacted piece of legislation. Secondary data on which the researcher has relied is judgment of the Supreme Court of India, various articles written books the jurists, and lastly the internet.

1.1.5 **Scheme of the study**

The entire scheme of research is described through different chapters

Chapter one talk about the introduction to the concept, research methodology, hypothesis and object, scope, and importance of the study

Chapter second deals with development of the concept of the equality. The in-depth historical study is covered so as to understand the concept to the fully. This shall be the base to the further research scheme.

Chapter third talks Constitutional study of the fundamental rights and the directive principles of the state policy.

Chapter fourth deals with administrative discretion and judicial control under the wider orbit of the Indian Constitution and other special legislation

Chapter fifth deals with the judicial review while discussing the various landmark judgments by Indian Supreme Court.

Chapter seventh talks about the legislative and executive attitude towards the principles of equality under A. 14

The last chapter deals with the conclusion and suggestions.
1.1.6 **Significance of the Study**

The idea of equality and its correlate, freedom, is now spreading to the farthest corners of the earth and is everywhere contributing to the mental emancipation of peoples. In practice, of course, equality of rights is far from being universally assured. Yet in many States considerable progress has been made in equalizing the conditions of well-being. Marxism proceeds from the assumption that people’s tastes and requirements are not, and cannot be, identical, equal in regard to qualify or quantity. By equality Marxism means not equalization of individual requirements and individual life, but the abolition of classes, Marxism has never recognized, nor does it require any other equality. “The real content of the proletarian demand for equality” said Engels “is the demand for the abolition of classes. Any demand for equality which goes beyond that of necessity passes into absurdity”. Lenin said the same thing: “Engels was thousand times right when he wrote that to conceive equality as meaning anything beyond the abolition of classes is a stupid and absurd prejudice. Bourgeois professors have tried to make use of the idea of equality to accuse us of wanting to make all men equal to another. They have tried to accuse the Socialists of this absurdity, which they themselves invented.” But in their ignorance they did not know that the Socialists and precisely the founders of modern scientific socialism, Marx and Engels said: “Equality is an empty phrase unless by equality is meant the abolition of classes. We want to abolish classes, and in this respect we stand for equality. But the claim that we want to make all men equal to one another is an empty phrase and stupid invention of intellectuals”.

The concept of equality is not confined to the national boundaries of one country or the people of a specific nation but it affects all human being inhibiting on the earth. Removal of inequality in every respect is the prime concern of every country of the world.

1.2 **Concept**

Equality, a fundamental premise of democracy, is a classic ingredient of our modern system of social values. The concept of equality presupposes the existence
of inequalities. When two things are said to be equal they are so only in certain respects, though the remaining difference between them may be regarded as irrelevant in the given context. Besides, the extent to which the principle of equality may apply cannot be defined in an abstract and general sense. It is because it depends on the prevalent values and standards of a society. Apparently "like fundamental rights in general, equality belongs to those concepts that resist standardization, while remaining open to a range of interpretations."\(^1\) The term 'equality' has its psychological significance: For the great majority of mankind the desire to be respected as an equal, and to be treated as such, presents a potent emotional appeal.\(^2\)

It cannot be denied that the record of most societies and most political systems embodies the practice of privilege. This is the main reason why equality, when it is evoked, has so explosive an effect. The dictionary meaning of the term signifies that equality is:

1. The condition of being equal in quantity, amount, value, intensity, etc.
2. The condition of having equal dignity, rank, or privileges with others; the fact of being on an equal footing. The condition of being equal in power, ability, achievement, or excellence. Also (rarely) the condition of being equal to an emergency.
   In things: Due proportion, proportionateness.
4. Evenness of surface, uniformity of size or shape; level position. Also of movements or processes; evenness, regularity, uniformity in rate or degree. Now somewhat rare.\(^3\)

These definitions of equality reveal that men are unequal in power, ability, achievement or excellence. It is possible only when men are equal in power, ability and excellence that equality preserves a condition of equal rank. But it is

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2. Lipson, Leslie: The Great Issues of Politics (Jaico Publishing House, Bombay, 1973), p. 120.
not so. Men are not equal in either of the above traits. There exists a certain measure of inequality in all social orders despite a high passion for equality. Now unequal men may be in their abilities, yet in a deeper sense "all men are equal mainly by virtue of being men."\(^4\) Wollheim and Berlin both have asserted that the naturalness of the concept of equality appears to derive from the dual assumption that

(a) men are all makers of one species, of a simple class of objects (i.e. human beings), and

(b) That all members of a class should be treated uniformly, unless there is good and sufficient reason not to do so.\(^5\)

The concept of equality becomes clear when it is studied in the context of the social sciences. It refers to certain treatments which men either receive or ought to receive. Here it is construed in the sense of similarity that men are equal i.e. that they share same qualities. Men are unequal in many characteristics. There are natural and fundamental differences i.e. sex, colour, character, traits, natural endowments etc. There are also several institutional variations in respect of citizenship, religion, and social rank. On the other hand, some characteristics are common to all men, though in varying degrees e.g. age, strength, intelligence, possessions, power etc. To say, in these respects, that men are equal, can only mean that it is the outward resemblance of human appearance that it looks so. Amount of difference in degrees in above respects should be taken in account. Men are deemed to be equal for having 'human nature', though basically they have different outlook in respect of natural instincts.

Whether men are treated equally or not by others depend on the particular circumstances in which benefits or burdens are allotted to them. Such benefits and burdens may be several as for example:

Legal rights (to own property, to vote), legal duties (to respect the rights of others), material benefits (wages, unemployment benefits, social services),

\(^4\) Ibid.

liabilities (punishment, taxation, military service), and opportunities (to hold certain positions or offices). 6

1.3 Scope

It is a matter of individual characteristic and treatment—a treatment not only to one another but between State and individual and vice-versa. This raises a question that all persons having a certain characteristic should be allotted a certain benefit or burden. But first it is to be determined as to what kind of treatment is egalitarian. Only after knowing this traditional criterion of egalitarianism the concept of equality in modern times becomes obvious. The following elaboration makes the point clear:

First, Impartiality is the basic factor for a person to have 'equal treatment. It means the impartial allocation of some sort of benefit or burden to persons concerned e.g., 'equality before the law" which denotes the impartial application of the law. It is the oldest concept of equality. Thus equality in the true sense is possible only if a man gets an impartial treatment in accordance with specific legal or moral rules and his allotment of benefit or burden is determined exclusively by the rule itself and not by any other factors. Partiality, in any respect, to a man is nothing but an 'in egalitarian treatment'—an inequality.

Second, Equal Shares to All is another requirement to egalitarianism. The Utilitarian thinkers thought that "every body (is) to count for one, no body for more than one"7 in the allocation of benefits and burdens. Similarly, to the French revolutionaries equality meant that the some basic legal rights should be granted by every government to all its citizens. Therefore, such rules which envisage an allotment of benefit or burden in equal amounts to everyone are called egalitarian rules.

With a slight difference to the above, egalitarian society also conceives of Equal Shares to Equals in allocation. It is obvious that most of the rules of allocation grant equal shares of some kind but not to all generally but to all who are equal.

7. Ibid.
To be clearer, rules allow that all adult citizens have the right to vote, whoever commits a crime shall suffer a certain punishment and persons within the same income limit are liable to the same income tax. Even Aristotle considered a rule as inegalitarian if when either equals are awarded unequal shares or unequals equal shares.\(^8\) A just and legitimate society, according to him, is one in which inequalities - of property, or station, or power are generally perceived by the citizenry as necessary for the common good.\(^9\)

Every rule may be considered egalitarian for the reason that it stipulates that all those who are equal in a particular respect get the same specified treatment. For example universal suffrage means that the right to vote is given to all adult Citizens but not to minors and aliens. It is a universal practice.

Third, ever since Aristotle, unequal allotments have also been egalitarian provided they satisfy the requirement of Proportional Equality. A rule is generally considered to satisfy this requirement if it provides that the amount of benefit or burden is a monotonically increasing function of the specified characteristic, that is, the more of the characteristic; the more benefit or burden. To be clearer, two persons are treated in proportion to their inequality; only if the difference in the amount allotted to each is similarly correlated to the degree in which they differ in the characteristic specified by the rule. Likewise if any rule allots "equal shares to equals obviously not only allots 'unequal shares to unequals' but also allots them in proportion to their inequality."\(^{10}\) Thus the rules that 'to each according to his need' or 'to each according to his height' give different shares to different persons in the proportion keeping in view their difference as to need or height. A flat rate and a graduated income tax both fulfill the requirement of proportional equality.

Fourth, Unequal Shares Corresponding to Relevant Differences may also be egalitarian provided they are based on relevant differences in personal characteristics. Age and citizenship are relevant to voting rights but not so sex or

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8. Ibid.
race or wealth. Thus, it is held egalitarian to limit the franchise to adult citizens but would be inegalitarian if it is restricted to men or whites or to the payers of any particular tax. Wealth is, no doubt, relevant to taxmen and, therefore, a graduated income tax is considered egalitarian, but at the same time sales tax is not to be considered egalitarian as it disregards the relevant criterion by taxing poor and wealthy buyers at the same rate.

Rules of allocation and rules of distribution may be either egalitarian or inegalitarian. Such rules are egalitarian if they allocate the same kind or amount of benefit or burden to all. Similarly those rules of distribution are called egalitarian which stipulate that all are to have equal shares. A number of instances of egalitarianism can easily be produced to make this particular concept more clear and specific:

(a) At first the equality of opportunity was envisaged in the 19th century by some anarchists who advocated equal treatment to all in every respect. They emphasized equality particularly in occupation, consumption (all would eat and even dress alike) and in education which would ultimately wipe out the existing inequalities of talent and capacity. Inconsistent with this view several egalitarians considered otherwise and realized that in every society individuals possess varying degrees of ability and thus also hold positions of varying degrees of status and remuneration. In society, such rules deal with the distribution of access to positions. All persons, according to egalitarians, are to avail positions regardless of their differences in social status, economic resources and even in ability. Pennock has remarked that "the least able and the most able are given an equal start in the race for success."\textsuperscript{11} If it is so, everyone has an equal start and the position he occupies at the end depends on how far and how fast he runs i.e. on his own resourcefulness (and may be also to some extent on his own luck). The French Declaration of the Rights of Man rightly proclaims:

"All citizens are equally eligible to all honours, places and employments according to their different abilities, without any other distinction than that of their virtues and talents."\textsuperscript{12}

\textsuperscript{12} Sills, David, L. (ed.), op. cit., p. 105.
These are really significant words that manifest the views of egalitarians.

(b) Legal Equality has also been advocated by the egalitarians. It has been supported on historical grounds. Ever since the demand of human rights in every part of the world, equality was demanded on legal grounds. The equal distribution of opportunities required merely the equal allocation of the basic rights of 'life', liberty and prosperity'. With the growth of democratic institutions and the enactments of new constitutions in the world, these basic rights have been provided adequate legal sanctions.

(c) The Equal Satisfaction of Basic Needs of every person is a prime responsibility of the society - State - according to the egalitarians. The increasing industrialization brought into lime light an awareness in the masses that equality of opportunity can never be achieved by the "majestic equality of the law which forbids rich and poor alike to steal bread and to sleep under bridges."

It means the legal equality is not a remedy to ensure the equality of opportunity which presupposes the equal allotment of certain rights.

Indeed, in our society, as we see those who lack the basic physical or educational necessities do not enjoy the same opportunities to reach the higher positions. To bring them at par with those of well to do in many respects, Governments, sometime, try to compensate such people by means of social legislation and social services e.g. minimum wages., tax exemptions, unemployment benefits, free public schools and scholarships, travel grants etc.

Thus, it manifests that the equality of opportunity is not merely a concern of legal equality, but its very existence depends, not on the absence of disabilities, but on the presence of abilities.

(d) The Demand for Economic Equality, in modern times has gained momentum. While the equality of opportunity, in no way, implies equalization of wealth among the masses, it does require equal satisfaction of their basic needs as a pre-condition. In other words it means ensuring a reduction of extreme inequalities in the distribution of commodities. Rousseau is also of the view that:

\[ \text{Ibid.} \]
“By equality, we should understand not that the degree of power and riches be absolutely identical for everybody but that no citizen be wealthy enough to buy another and none poor enough to be forced to sell him”\textsuperscript{14}

Fifth, to achieve the above end of economic equality, Karl Marx has revolutionized the ideals of common folks by giving a direction for demanding the Common Ownership of The Means of Production. He interprets equality as the opportunity for each to occupy the position which corresponds to his ability. Marx disagrees with those demanding equality through a redistribution of the means of consumption i.e. the demand for fair distribution as well as for equal rights. He regards such utterances as absolute verbal rubbish. But he finds a remedy in the abolition of private control of the means of production. According to him such common ownership can eliminate all the exploitation of the people and class struggle too. Thus with the abolition of class distinctions, in the long run, all social and political inequalities, arising from them, would disappear.

Sixth, the principle to each According to His Merit also bears the testimony of egalitarianism. It means that if there is equality of opportunity the higher positions earn higher salaries and both go to those having greater merit and ability. A man is judged on the basis of his ability and talents. Therefore, this unequal allocation of rewards pertaining to inequality of ability is a consequence of equal distribution of opportunities.

Seventh, Marx further expresses his views about equality to the people by a radical change in the means of consumption and distribution so as to make it available To Each According to His Need. It is the final stage of his communism based on the principle of ‘from each according to his ability, to each according to his need’. No doubt in this system also positions still correlate to ability, but everyone works spontaneously to the best of his ability though compensation for the work differs according to need irrespective of the nature of work. This is also another egalitarian rule of allocation.

Eighth, the complex claim to Social Equality has attracted the minds of social scientists and political leaders. It is primarily designed to afford all men equal

\textsuperscript{14} Ibid., p. 106.
opportunities as well as to abolish every kind of discriminations particularly racial discrimination and the unequal treatment of the sexes. The problems of racial discrimination, in some way or the other, are an international problem. The equality of women did not become an acknowledged problem until the advent of large-scale industrialization. With the result that in the present century its promotion has been the subject of discussion and legislation throughout the world. It is because industrialization requires the participation of all members of society. Therefore, it has "furthered sexual equality in education, employment and civil life as well as partnership in marriage."¹⁵ Today women folk are much enlightened about their rights and duties and, therefore, have been playing prominent roles in the national and even international spheres.

Ninth, in the present century Political Equality specially has by passed even the significance of equality in other respects as mentioned earlier. Eminent political scientists have advocated the equalization of political power through direct democracy. Therefore, political equality means equality of opportunity to participate in the political processes of the state. More specifically it has been consolidated in the institutions of universal suffrage and representative governments. In the political field: “The principle of equality is based on the premise that every man knows what is best for him and that even the averagely gifted are capable of choosing wise representatives.”¹⁶

Early thinkers did not at all consider the political rights as worth demanding with all other basic rights. They simply required that wealth should replace birth as a criterion for franchise. With the passage of time, property qualifications for voting rights became an inegalitarian rule. Besides, in highly productive industrial societies the development of the principle of equality has led to the establishment of Western type (non-communist) democracies in the present day circumstances political equality has been gaining momentum.

Lastly, since the turn of the century increasing political importance has been attached to the concept of the Welfare State for which equality is a prime

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¹⁶ Ibid.
factor. In order to achieve this, several democratic constitutions have provided written guarantees to the citizens for their all-round development. The states have increasingly assumed responsibility for the apportionment of goods to the people. Formerly this was left to private enterprise. This assumption of responsibility has resulted in the development of Welfare States and to a hitherto unknown degree of national solidarity and integration. Besides, the juristic interpretation of the principle of equality calls upon society to acknowledge that those who are unable to make full use of their economic freedom are at least assured of a standard of living compatible with human dignity.\(^\text{17}\)

However, the present welfare societies do not seem to have solved the problem of inequality.

1.4 Historical Perspective

The demand for equality can be traced back to antiquity. The stoics are supposed to be the propounders of the concept of equality in the western world. They deduced this concept from the concept of 'natural law' and tried to make it the basis of equality. Stoicism laid emphasis upon the idea of self-realization as the goal to be achieved by every individual. According to Stoics men are the sons of God and, therefore, they are brothers to one another. Since every man is endowed with reason, so every man is equal. Sabine observes:

“Stoicism is thus tended to conceive of a world-wide system of law.... It diminished the importance of social distinctions between individuals, and tended also to promote harmony between states.”\(^\text{18}\)

The Stoic philosophy established in very clear terms the notion of the equality of men. They were the first to coin the phrase 'citizen of the world' and today the ideas of universal brotherhood of men and world government, are the legacy of Stoics. Their concept of the law of nature later on became the basis of Roman

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\(^\text{17}\) Ibid.

jurisprudence. A distinction was made by Roman thinkers between these two concepts—the concept of "the law of nature which postulated absolute equality, and the (concept of) law of nations (lus gentium) which recognized slavery."²⁹ Actually "by nature all men are born free and equal, but slavery is permitted according to the lus gentium."²⁰ Christianity further added to the Stoic doctrine the primacy of the individual rights as a separate and distinct subject of equality. It was on this basis that the principle of human equality was expressed in terms of natural law in the early modern age. Therefore, "Christianity spoke first to the under privileged, to the lowly of this earth, not the mighty, to those who were rich only in hope and faith."²¹ St. Paul observed: "There is neither Jew nor Greek, there is neither bond nor free, there is neither male nor female, for ye' are all one in Jesus Christ."²² Its social teaching, thus, was inclined heavily towards egalitarianism.

Sophists, on the other hand, were divided into two schools. Some argued that nature is good and civilization bad, believed that "by nature all men are equal, becoming unequal only by class made institutions, and that law is an invention of the strong to chain and rule the weak."²³ Others who claimed that nature is beyond good and evil were of the view that "by nature all men are unequal, that morality is an invention of the weak to limit and deter the strong."²⁴ Socrates, afterwards, attached the democratic theory of equality among men. He was against the rule of a sovereign assembly "in which every thinker and tailor, cobbler and fowler has an equal voice in public affairs with those who really understood something of the art of politics."²⁵ His great disciple Plato perpetuated his master's thinking in the Republic. "No two persons," he declared, "are born exactly alike, but each differs from each in endowments, one being suited for one

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²¹ Lipson, Leslie, op. cit., p. 125.
²² Ibid.
²³ Durant, Will: The Story of Philosophy, p. 3.
²⁴ Ibid.
occupation, and another for another." 26 His classification of the entire population into three classes viz. guardians, assistant guardians and farmers, is determined by this very concept of human nature. It was in this context that equality was defined in terms of justice:

“…..of giving each man his due, so that equal man received equal rewards that all men were not equal and certainly not equal in all respects—was a platitude confirmed daily by the most casual observation.”27

Therefore, each individual in the State was to be assigned to the class for which he was best fitted.

Afterwards Aristotle's 'distributive justice' came to be known as that principle of distribution by which goods, services, honour and offices are distributed among the citizens of the State. Different men make different contributions and hence they put forward their different claims for share in the distribution of offices and honours. Therefore, according to Aristotle, a democratic State will suggest that offices, honours and other rewards should be distributed in equal shares to the citizens of the State. It is thus, established that distributive justice in democracy insists on absolute equality. Moreover, this distributive justice creates a certain system of rights which establishes a sort of proportionate equality in the State. It is, therefore, the business of the corrective justice to see to it that the proportionate equality so established may not be disturbed. Proportionate equality "recognizes and preserves the distinction between the worthy and non-worthy. It counters equality of the unequal and ensures that a man's rights, duties and rewards should correspond to his merit and social contribution." 28 It thus appears that both Aristotle's and modern justice are founded on equality. Moreover, the concept of equality-social, political and legal, which the modern idea of justice implies, was beyond the purview of Aristotle whose justice envisaged proportionate equality where a citizen was rewarded according to his capacity or ability. The modern concept of justice, on the other hand, endeavours to pay the citizens not only

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26 Ibid. p. 57.
28 Singh, Sukhvir, op. cit., p. 176.
according to their capacity or ability but also according to their needs. Even Aristotle's ideas on the establishment of social justice, based on proportionate equality, have become the slogans of all the champions of socialism and economic democracy. Though, practically these slogans have nowhere been materialized fully in today's world.

However, this equality of treatment was not open to the men of all walks of life in society but confined to the citizens. In this category artisans and slaves were not included. He excludes these two categories on the ground that virtue is impossible for men whose time is consumed in menial labour.²⁹ He, therefore, asserts that the denial of equality to the masses will be disastrous to the State as it will lead to a revolution. According to him:

The inferiors revolt in order that they may be equal, and equals that they may be superiors. It is this state of mind which impels them to create the revolutions.³⁰

Besides, he also defends slavery on the ground that it is quite in accord with the laws of nature as well as principle of justice. Aristotle maintains:

For that some should rule and others be ruled is a thing, not only necessary, but expedient, from the hour of their birth, some are marked out for subjection, others for rule.³¹ He has contended his viewpoint that:

“Nature is universally ruled by the contrast of the superior and inferior: man is superior to animals, the male to the female, the soul to the body, reason to passion. In all these divisions, it is just that the superior rules over the inferior, and such a rule is to the advantage of both.”³²

Evidently this observation presents a contradictory thinking of Aristotle. While at one place he claims equality as the bulwark of democracy and justice on the other he supports slavery on the pretext of nature. He regards "inequality inherent in

²⁹Sabine, G. H., op. cit., p. 95.
³⁰Singh, Sukhvir. op. cit., p. 211.
³¹Aristotle: Politics, Book I, 5, 2, p. 32.
³²Ibid. Book I, 5, 10, p. 34.
slavery as a natural and culturally justifiable phenomenon." 33 His concept of equality, therefore, appears a limited concept as it is applied primarily to a small fraction of the society and has no universal application in the modern world.

In his De Republica, Cicero has maintained that justice consists in acting according to the law of nature which is the dictate of right reason. Because every man has been endowed with reason, therefore, every man is equal. To him, therefore, justice consists in providing equality of opportunity to all and to restore and give everyone his right. About this equality of men, he says:

“They are not equal in learning, nor is it proper for the State to equalize their property, but in the possession of reason, in their underlying psychological make-up, and in their general attitude towards what they believe to be honorable or base.”34

He observes that things that actually prevent men from being equal are errors, bad habits and false opinions. He also does not admit any racial distinction as it is done by certain racists. Thus breaking the traditional line of Plato and Aristotle he preached the equality of men on the basis of the law of nature.35

According to St. Augustine "man was created in God's image to be master of irrational creatures, beasts not to fellow men."

He, thus, considers all men to be equal. Therefore slavery cannot be justified on the basis of the nature of men. On the other hand, it can be justified as a result of human sin. Augustine holds it both punishment and remedy for sin. St. Thomas Acquinas, on the other hand, makes Aristotle his guide when he accepts equality as the very basis of justice and adopts the doctrine of distributive justice. He defines justice as the fixed and perpetual will to give everyone his own rights. Afterwards Bodin does not believe in the equality of rights between citizens and allows the nobility its own social and political status. Though he has condemned slavery, he argues with Aristotle that slavery is natural. He opines:

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34 Singh, Sukhvir, op. cit., p. 265.
“I agree that servitude is natural, where the strong, brutal, rich and ignorant obey the wise, prudent and humble, poor "though they may be. But no one would deny that to subject wise men to fools, the well-informed to the ignorant, saints to the sinners are against nature.”

At the same time, among the many remedies that Bodin has discussed for the prevention of revolutions, he suggests strongly the poverty and inequalities of opportunities.

Among the exponents of the contract theory of the State Hobbes admits that in the State of nature man is both free and equal. 37 For as to the strength of body,, the weakest has strength enough to kill the strongest, either by secret machination, or by confederacy with others that are in the same danger with himself. And as to the faculties of mind, I find yet a greater equality among men, than that of strength. For prudence is but experience which equal time, equally bestows on all men, in those things them equally themselves unto.”

Hobbes required equal legal rights and equal justice for all, regard- less of wealth or traditional rank. He wrote that in such a society the 'safety of the people, require that Justice be equally administered to all degrees of people, that is, that as well the rich, and mighty, as poor and obscure persons, may be righted of the injuries done them  “39  It is, therefore, noticed that Hobbes laid emphasis on equality: "both in his stipulations about legal rights of the individual in the sovereign state whose desirability he was trying to demonstrate, and in his theoretical model of society where all relations are in effect market relations." 40 Actually he needed the postulate of equality in a still more fundamental way. Without it he could not have hoped to deduce right and obligation from the supposed facts of men's nature.

"Leviathan, pp. 63-64.
"Ibid.
"Ibid., Ch. 30, p. 180.
Afterwards, Locke, a great political thinker of his time, further supports the idea of individual equality as the embodiment of certain natural rights as a common plea of political speculation. He admits that men are more or less equal. He writes:

“All men are naturally in a state of equality, wherein all the power and jurisdiction is reciprocal no one having more than another, there being nothing more evident than that creatures of the same species and rank, promiscuously born to all the same advantages of nature, and the use of the same faculties, should also be equal one amongst another without subordination or sujection.”  

Jean Jacques Rousseau takes the state of nature as a state of perfect equality, perfect freedom and perfect innocence. Man's emergence according to him from the state of nature is due to fatal chance. The development in the art of agriculture required the aid of one another. This led to the creation of rich and poor. Besides, property also showed its pernicious effect. It ultimately led to inequality. Not only this, but through the device of the social contract, perfect equality is ensured as each individual makes a complete alienation of himself and all his rights to the community. Rousseau in his 'Discourses on Inequality' has distinguished between two kinds of inequality. While the first is natural and consists in differences of age, health, bodily strength and the qualities of mind and soul, the second is moral or political inequality, which owes its existence to social institutions and consists in privileges of wealth, honour and power. It is, therefore, established that the problem of inequality arises with the formation of society.

To Montesquieu "political society is natural." In the state of nature all were equal. But as soon as man enters into a society he loses the sense of his weakness, equality ceases and then commences the state of war. He does not admit that slavery is a natural phenomenon. It is against natural law which declares that all

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42 Ibid., p. 118.
men are born equal. He, therefore, rejects all the claims that "rested upon Aristotelian doctrine of natural superiority of one race to another." Edmund Burke, on the other hand, bitterly refutes equality. He asserts that "people could never be equal from womb to womb. To talk about equality and classless society is stupid and impracticable proposition." Bentham, while laying down the purpose of government as to promote the greatest happiness of the greatest number, also makes it a duty of a legislator to keep in view certain objects while enacting a particular piece of legislation. He has to keep in view the happiness of the body politic which consists in promoting security, subsistence, abundance and equality, and, therefore, act upon a principle of "everyone is to count for one and no one for more than one." Bentham, thus, expresses his wrath against preferences and privileges. J. S. Mill was the first who pleaded the cause of women for their emancipation and equal status. He is of the view that if women differ from men on ground of sex, this distinction of sex should not be made as a basis of distinction everywhere. Such inequality, according to him is highly unjust and condemnable. On the other hand, he regards private property as a social institution necessary to good and progress of mankind. With the result quite contrary to the teachings of socialism, inequality is admitted by him as a social necessity especially in the economic sphere.

To Hegel the idea that men in the state of nature were free and equal appears to be absurd and ridiculous. Then the life of men was marked by injustice and violence and it was mostly dominated by natural impulses and feelings. Hegel thus "turns the edge of the principle of equality by identifying equality with discipline." Thomas Hill Green's views about private property support inequality in the economic matters. It is because capacity of men differs from each other. Since, in the life of society different men have different functions to fulfill; inequality of property is a necessary condition of it. On the other hand, Herbert Spencer's doctrine of natural rights constitutes his extreme individualism and

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* Singh, Sukhvir, op. cit., p. 489.
* Ibid., p. 504.
equality. On the basis of the law of 'equal freedom' he stresses for property as "one of the elements of our nature," 47 and pleads for equal rights to women.

In the 24th century Karl Marx is regarded by many as the champion of equality for the weaker sections of the society living in any part of the world. To him equality means "the abolition of classes and the equal social status of all men." 48 His yardstick for measuring equality is labour. Therefore, equality does not mean that all men should be put on the same level. He interprets equality as the opportunity for each to occupy the position which corresponds to his ability. "We want," Lenin observes, "to abolish classes, and in this sense we are for equality." 49 Besides, under Marxist philosophy equality does not signify egalitarianism with regard to personal needs. One individual will always be different from another.

Communist equality presupposes the eradication not of all distinctions between people, but only of such distinctions between people ... and such conditions as would give rise to a difference in the social position of people. 50

Lenin tried to follow this principle of Marx. Consequently a common factor in Marxism-Leninism in the respect appears that equality entails abolition of the private ownership of the means of production, the end of all human exploitation, the elimination of classes and the eradication of all political and cultural discrimination against the proletariat. Besides, the socialization of all means of production must precede the universal obligation to work and equality of pay regardless of age, sex and nationality. The wages must be geared to the quality and quantity of work performed. It is a fact that natural variety cannot be parted with but it should not be taken as a justification for inequality. On the contrary "variety promotes equality, though in a social and not in an individual sense." 51 Therefore, only the abolition of classes can achieve social equality and help to promote the all-round development of the human personality.

According to G. D. H. Cole all men should have equal chances of the good life and of living it in the ways that suit them best. For this there must be the rule of law as "all men are brothers and the only valid reason for hating one's brother is that he is acting against what is good and right." 52 Besides, he stresses economic equality more than any other because the real roots of social inequality are mainly economic. Therefore, it is not possible for men to be socially or politically equal as long as there exist among them differences of wealth. According to Cole:

Children of the distinct economic classes with widely differing opportunities in childhood, who became healthy, educated and wide travelled, regard the world as a place made to suit their convenience. 53

The anarchists believe in the universal communism and emphasize that: "all belongs to everybody and, therefore, everybody has a right to share in all which belongs to everybody provided he or she contributes his or her share to the production of necessary object." 54

Harold J. Laski believes equality as a necessary guarantee of liberty. To him equality implies a certain leveling process. "It means", Laski says, "that no man shall be so placed in society that he can over reach his neighbour to the extent which constitutes a denial of the latter's citizenship." 55 Thus, "The ultimate meaning of equality lies in the fact that the very differences in the nature of men require mechanisms for the expression of their wills that gives to each its due bearing." 56 He has insisted that that "to proclaim that man is born equal is not to proclaim that they are born identical." 57 Since he is a champion of democracy he admits that where there is rule of limited numbers, inequality is bound to exist. He, therefore, advocates the abolition of all special privileges based on birth.

53 Ibid., p. 489.
56 Ibid.
property, religion or colour. Abolition of such privileges involves the enjoyment of equal rights by all and, also equality before law. He also considers adequate and equal opportunities to all for the full development of their personalities as a factor of equality. However, equal opportunity to him does not mean identical treatment for individuals who differ in capacity and need. According to his equality is an:

“Insistence that there is no difference inherent in nature between the claims of men to happiness. It is, therefore, an argument that society shall not construct barriers against those claims which weigh more heavily upon some than upon others.” ⁵⁸

Bertrand Russell is an exponent of equality, brotherhood, humanism and common good of the masses. He considers all the human beings, living in any part of the world, as equal partners. He has, therefore, asked them to break all the man-made national or international barriers.

So far as the ancient Indian culture and civilization is concerned, the Vedas and Smritis speak highly of equality and brotherhood. "Vasudhaiv Kutumbkam." (The entire world is a family) was the motto of civilization. The Yajur Veda says:

As I (God) have proclaimed this salutary Vedic Vani for the benefit of whole humanity, for Brahmans, the Kshatriyas, the Shudras. The Vaishyas, the Kins-folk and the men of lowest position (in society), so you O Men, preach to all. ⁵⁹

However, it cannot be denied that inequality was unknown in that social system. The words 'men of lowest position' are sufficient in themselves to prove the prevalent inequality in society. In Geeta Lord Krishna has also spoken for the equality of all souls:

“The four classes (Vernas) were created by me on the basis of 'Guna' i.e. ability, and the 'Karma' i.e. deeds, performed by an individual, and not on the basis of paternity.” ⁶⁰

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⁵⁸ Singh, Sukhvir, op. cit., p. 355.
⁵⁹ Yajur Veda-XXXVI-2.
This Verna Vyastha was based on 'Karma' and was but a pragmatic device for skill through specialization. It was expected in that small and simple society that the son should pick up the art of his father. But there was no compulsion in this. It was never intended to be based either on birth or any other hereditary principles. It depended on merit and all had equal opportunities in all walks of their lives.

Otherwise how was it possible for Krishna, who had to herd cows, to become Lord Krishna and teach the precepts of Geeta? History is replete with numerous facts that equality and equal opportunities were really the pivot of Indian culture. The great Rishis and eminent authors—like Ved Vyas (son of a sailor woman), 61 Parashar, who wrote the Hindu law (born to a Chandala woman), Satyakama Jabala (son of Shudra) who wrote Chhandogya Upanishad and Aitaraya (son of Shudra woman) who wrote Brahmaand Upanishad, could find their places in the Indian history only when they availed of equal opportunities in that social system. Besides, instances are available when the people had enjoyed equality in their social lives e.g. Kama, a great warrior, was the son of a Sarthi; 62 Bheem, also a warrior, married to Hidimba (Rakchhahi) 63 and Anirudha son of Pradyuman and grandson of Krishna, was married to Usha -the daughter of Varnasur—a Rakshash. 64

Actually the Vedic age of pre-Manu India was more liberal in its attitude in providing equal status to the people. For the Rig Vedic Aryans "there was hardly any taboo on intermarriage, change of occupation or commensality." 65 There was no ban on the taking of food cooked by the Shudras. Evidence is also not available that in that period impurity was communicated by the touch or contact of the inferior castes. But the later Vedic civilization, following the composition of the Laws of Manu, presented a totally changed picture of social setup. Caste

61 Shrimad Bhagwat (Geeta Press, Gorakhpur, 1963), Ch. IV, Skandha I, Shlok 14: p. 60.
62 Veni Samharam Natakam (Sahitya Bhandar, Meerut, 2nd Ed. 1967), Ch. III, Shloka 37.
64 Harsha, Shri (Shastri, Dr. Shiva Raj Commentator), Naishad Mahakavya (Sahitya Bhandar, Subhash Bazzar, Meerut, 1972), Pratham Sarg, Shlok 32.
system became hereditary and inequality started. Manu has called the Shudras as Chandalas and has mentioned their habitation thus: The dwelling of Chandalas and Shvapachas shall be outside the village; they shall be made 'Apapatra' and their wealth shall consist of dogs and donkeys. Near worshipped tree; and cremation grounds, on hills and in groves, these shall dwell, duly marked, subsisting by their respective occupations.\textsuperscript{66}

It is, therefore, inferred that people so designated, lived apart from others and might have been held as untouchables. Brahmins played predominant role in the society and enjoyed privileges.

Similarly, Gautam Budha, the beacon light of brotherhood and cosmopolitanism, preached equality to all human beings. According to him all human beings were "in respect of joy and sorrow, love, insight, manners and ways, death, fear and life all equal."\textsuperscript{67} Buddhism represented a revolt against Brahmanism. It denied caste privileges before the law and more than anything else insisted that caste was wholly immaterial in ascetic life. At the same time Jainism also preached the principles of brotherhood and equality. In the 19th century India had some prominent social reformers who raised their voice for equality in social, economic and political spheres of the lives of the countrymen. Raja Ram Mohan Roy was the champion who was deadly against social evils and inequalities rampant in the society. The advent of Swami Dayanand, with his profound knowledge of Vedas and Shastras, opened a new era of emancipation by unlocking the sealed doors of Hindu religion. He presented a true picture of brotherhood and unity. His 'Arya Samaj' is still a living embodiment of his ideas and principle of social equality.

Swami Vivekanand was another great Vedantist who was of the view that freedom is meaningless unless it is based on the edifice of equality. He was a staunch supporter of equality which he thought was the "way to freedom: inequality, the way to bondage. No man and no nation can attempt to gain

physical freedom without physical equality, nor mental freedom without mental equality.”

According to Vivekanand:

“Ignorance, inequality and desire are the three causes of human misery, and each follows the other in inevitable union. Inequality is the bane of human nature, the curse upon mankind, the root of all misery. This is a source of all bondage, physical, mental and spiritual.”

However, he was aware that absolute equality is impossible. It is against the law of nature. He has observed that

Absolute equality which means a perfect balance of all the struggling forces in all the planes can never be in this world. Before you attain that state, the world will have become quite unfit for any kind of life, and no one will be there. We find, therefore, that all these ideas of absolute equality are not only impossible but also that, if we try to carry them out, they will lead us surely enough to the day of destruction. We come into the world with unequal endowments; we come as greater men or as lesser men, and there is no getting away from the prenatally determined condition.

He is of the view that so long as this world lasts, there will be differentiation and the millennium of perfect equality will come only when the cycle of creation comes to an end. As a true Vedantist Vivekanand believes that equality is one of the fundamental principles of Vedanta. He observes:

“The idea that one man is born superior to another has no meaning in the Vedanta; that between two nations one is superior and other inferior, has no meaning whatsoever.”

He further opines:

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Ibid., pp. 328-29.


“Put them in the same circumstances, and see whether the same intelligence comes out or not. Before that you have no right to say that one nation is superior to another. And as to spirituality, no privilege should be claimed there. There are no special messengers of God, never were, and never can be. All beings great or small, are equally manifestations of God; the difference is only in the manifestation.”  

According to him:

“None can be Vedantist, and at the same time admit of privilege to any one, mental, physical, or spiritual, absolutely no privilege for anyone. All knowledge is in every soul, even in the most ignorant, he has not manifested it, but, perhaps, he has not had the opportunity, the environment was not, perhaps, suitable to him. When he gets the opportunity, he will manifest it.”

According to Vivekanand equality is an ideal. Everyone should preserve it and should hope to attain it sometime, and strive for it. He maintains that:

“Gradually we reach the idea of universal brotherhood by flinging down the walls of inequality.”

This idea of universal brotherhood, preached by him, is of great political significance in modern times. It is the cornerstone of the Indian tradition, the chief content of the Indian national character.

It has repeatedly been proved that given equal opportunity a man, be he of any colour or country, and is fully equal to any other.

Acharya Vinoba Bhave has his own views about equality. While addressing a conference at Mathura in 1951, he said:

“I do not want arithmetical equality, but I do want equality or such equality as, for instance, the five fingers of the hand have.”

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72 Ibid., p. 423.
73 Ibid.
75 M. K. Gandhi in Harijan, June 30, 1946.
These five fingers are not equal in dimensions, but they all work in full cooperation and together perform immeasurable tasks. The idea is good and can be applied with advantage especially in removing abnormal inequalities in under-developed societies. The moral is that "even if there cannot be absolute equality, there should also not be disproportionate inequality, but there should be equality even through their inequality." Where equality is brought about by force, all are compelled to conform to the same pattern. "We are totally against this kind of regimentation. We aim at spiritual equality based on discrimination." He is, thus, more prone to the moral and spiritual aspect of equality. Dr. Ram Manohar Lohia observes that:

“All talk of equality as a general concept without a concrete meaning that accompanies it is either hypocrisy or lethargy of the mind.”

According to him:

“Man must strive to feel an inward equality between contrary conditions of pleasure and pain, heat and cold, victory and defeat.”

According to Nehru equality included all the aspects of life i.e. social, economic, cultural and political. Since life is a complete whole, a society must try to remove disparities in all spheres. He, therefore, stressed for "social equality in the widest sense and equality of opportunity for everyone." He elaborated the meaning of equality on the social plane thus:

“Every man and woman must have the opportunity to develop to the best of his or her ability….. Honour and merit must come from ability and hard work and not because of caste or riches”

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Marx. Gandhi and Socialism (Hyderabad, Nvahind, 1953), pp. 222-41.
Ibid.
Ibid.
To ensure a true democracy to the masses, he firmly advocated the removal of privileges. Actually he considered equality and democracy as relative terms. In 1933 he wrote: "Democracy means equality, and democracy can only flourish in an equal society."\(^8\) It is true that all human beings are not equal in their ability or capacity. It depends upon individuals as to what extent they can develop their faculties. Nehru did not believe equalizing all persons and groups. He observed:

“What is essential is that they should be given equal opportunities to develop. If a nation, or a group, or an individual has the capacity in him to develop, well, he should have that opportunity.”\(^8\)

Similar views regarding equality were also fostered by J. P. Narayan. His ideas about 'total revolution' were nothing but complete socio-economic transformation of society so that all the Indians could lead a life of equality and brotherhood. Equality to him meant to remove the existing disparities and social evils in the society. So also are the views of Mrs. Indira Gandhi, who has been endeavouring to reduce the gap between 'have' and 'have not’s so that socialism could be achieved. In order to ensure socialism equality is a precondition. Therefore, she lays great stress on social, economic and political equality which are the pivot of democracy.

It is an undeniable fact that all the changes in the social and political structure of a society are the results of the thoughts of eminent thinkers. Similarly, the ideals and views, concerning equality, of all the Western and Indian political thinkers (as dealt with earlier) have influenced to a great extent the social and economic movements in many parts of the world. With the movement of time equality, which was confined merely to social and political thinking became a matter of legal consideration. As a result of this all the social and economic awakening in the 19th and 20th centuries has been affected by the consideration of equality which has by now found its place in the constitutional documents. Equality, thus, has its own history in becoming a legal doctrine.


It was in 18th century, when the exponents of natural law postulating equality of status for all men, finally created a theoretical basis for the political realization of the egalitarian concept. Henceforth the affirmation that all men are born equal figures in manifestoes of American Declaration of Independence (1776) and the Declaration of the Rights of Man (1789) in France. In the last and the present centuries the demand for equality became even more insistent. The Declaration of Human Rights by the United Nations in 1948 has extended the recognition of equality, which had been accepted as an aim by virtually all strata of the industrialized countries, so the coloured peoples who had hitherto been discriminated against, thus contributing to the eventual emergence of the truly international society on which social and economic development on a world scale must depend.\textsuperscript{85}

Besides, with the growth of capitalism in the 19th century the struggle for equality and liberty got further*impetus and political theorists sought to reduce the role of the State to that of a mere guardian. They advocated the theory of laissez faire. But it should be borne in mind that the idea of absolute liberty gave rise to social inequality. The rich became richer and the poor became poorer. It created a wide gulf between these two sections of the society. Political scientists in the present century, to get rid of this inequality, have given a new concept of social service State, instead of the old one of Police State. In this period, to a great extent, the emphasis is laid upon economic sphere of State activity and the people become increasingly aware of the fact that real liberty is not possible where grave inequalities in economic sphere exist. As a result men have diverted their minds from political struggle to economic rights which ultimately have given way to socialism. Therefore, economic equality has become a leading doctrine in political thinking because men have begun to argue that so long as there existed economic inequality, there could not be true liberty. Consequently, a revolutionary idea of socialistic equality has led towards social revolution in many countries. The existence of inequality has legitimately provoked social criticism. With increasing criticism of inequality there has developed a corresponding desire for equality.

\textsuperscript{85} Kering, C.D.: op. cit., p. 206.
This ultimately led political philosophers to think in terms of a 'socialistic pattern of society' (particularly in India), a far cry from imperialistic and capitalistic systems.

However, no doctrine of equality supposes that all men are equal. Under particular conditions, no doubt, inequality is inescapable. Men differ almost in every respect. They are radically unlike in strength and physical prowess, in mental ability and creative power and also in both capacity and willingness to serve the community as well as in power and imagination. It is a fact that many of the existing inequalities between men are the outcome of inequality viz. in early nurture, in educational and cultural opportunity and in sheer provision for physical needs. It is argued that inequality among men arises from these causes.

Even if all men had equal opportunities, and were born of equally equipped parents, inequality would persist, both because men would still be born different, and because from the very moment of birth they would be subject to the influence of differing chances and conditions. There will certainly never be a society consisting of equals if this means a society of men and women who are all equal in capacity to do and to serve.\textsuperscript{86}

It follows, therefore, that the advocates of political and social equality cannot be taken as meaning either that all men are or that all can become equal in these respects.

Equality by itself does not seem to be an ideal thing. Maclver is of the view that "if all men were equally wretched, equally poor, or equally powerful, equality would be no boon." He further observes that: "in a menagerie all the animals are equally under the whip. In a slave State all men, except the slave drivers, are equal in servitude. In this sense men may be more equal under a totalitarian regime than under a democracy."\textsuperscript{87} Actually men are equal only because they are men and beyond this their potentialities, aspirations and desires vary endlessly from man to man. Therefore, any attempt to establish equality is nothing but mere craze and a beginning of


\textsuperscript{87}MacTver, R. M.: The Ramparts We Guard, 1960, p. 14.
trouble. Laski has also observed: If equality means the minimization of the handicaps our present social order, imposes, it is a desirable ideal. But if all men were equally poor, or equally powerful, then equality would be a curse.\textsuperscript{88}

Macfver is also of the view that:

\begin{quote}
"It is within the mission of democracy, and entirely congenial to its nature, that it should remove the insidious inequalities that frustrate and balk the fulfilsments men are capable of, the inequalities that arise from cramped circumstances, from the unequal hazards of life, from privileges and from 'births' invidious bar, and from all the tyrannies of man over man, group over group."\textsuperscript{89}
\end{quote}

He further opines:

\begin{quote}
"But there are some inequalities that lie in the very nature of things...inequalities irrelevant to the democratic principles, that it cannot afford to disregard...For positions regarding expert training and professional experiment every man is not as good as his neighbour nor is every man equipped to determine who is better than whom."\textsuperscript{90}
\end{quote}

It should also be noted that the general concept of freedom is inseparably tied up with the concept of equality. Freedom is a condition of equality and vice versa. Equality without freedom is slavery, and freedom without equality is licence and anarchy. And yet, it is a paradox that eminent thinkers like De Tocquivelle and Lord Acton emphatically proclaim that liberty and equality are incompatible. Both, according to them, exist in inverse ratio, i.e. more of freedom, less of equality and vice versa. Lord Acton goes to the length of saying that "the passion for equality makes vain the hope of freedom." \textsuperscript{91} De Tocquivelle, however, observes that "men desired to be free in order to be able to make them selves equal."\textsuperscript{92} Much earlier to these thinkers the Greek political scientist Aristotle had

\begin{itemize}
\item Gupta, M. G.: op. cit., p. 289.
\item Mac Iver, R. M.: op. cit., p. 17.
\item Ibid.
\item Mehta, V. R.: A Theory of Politics (Sultan Chand and Sons, Delhi, 1968), p. 51.
\end{itemize}
also emphasised that liberty was not attainable until the passion for equality had been satisfied. Consequently it prevents the emergence of equilibrium and social harmony in the State in case the passion for equality remains unsatisfied. Therefore, it is established that freedom and equality, far from being antithetical, are complementary.

Now, whether equality has actually been realized in modern social arrangements is a moot question. Comparatively a remarkable growth of lower income groups represents a step toward equality only from a limited and statistical point of view. It would be more correct to regard it as a "monument toward further inequality." ⁹³ The gap between lower income groups and higher income groups has been instead of coming down so as to make equality a possibility, ever since, tending to no other direction but inequality. In the industrialized society of today the distribution of income is the root cause of inequality. Therefore,

human society ought to be organized on a basis that will both avoid as far as possible adding artificial to natural inequalities and recognize the right of each man to have his happiness and well-being considered equally with those of any other in the framing of social policy, subject only to the right of society to restrict the rights and claims of the individual for the purpose of promoting the greatest happiness and well-being of the greatest number.⁹⁴

On the whole it is established that the history of the concept of equality in the modern world is, to a great extent, a record of intermittent and sometimes violent dissatisfaction with the existing principles of equality. For the ideal of equal status men will undergo much sacrifice and will set great events in motion. It is because inequality dies hard. Seldom do the privileged surrender their advantages without a struggle. It is no accident, therefore, that some of the most revolutionary movements⁹⁵ in history have been sparked by a desire to achieve equality. They succeeded in large measure because the passion for equality was one of their

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⁹³ Sills, David, L.: op. cit., p. 110.
⁹⁵ Revolutions in Britain (1640-1688), U. S. A. (1776-1791) and France (1789)
driving forces. Therefore, any discussion over equality should be deemed an unending one, raising new questions, new ideas and even new problems.

1.5 Equality as a right

The evolution of the concept of equality, as dealt with earlier, does not arise from darkness and illusion, but basically it is the outcome of the deep reflections of social and political thinkers. This development in thinking relating to equality ultimately has led to the demand for its inclusion as a 'right' in the constitutional documents. It is in this context that a few lines are needed on the 'theoretical basis of the right to equality.

When a student of Political Science meditates on this basic right of equality, it appears to him that there is something inherent in human nature by virtue of which he wants to be equal to others and free from all the bonds of society, political subjection, imprisonment or slavery. Human nature is composed of such ingredients which defy all theories relating to the restrictions imposed on this sacred right. The dark ages, the medieval period and the present times in the history of social revolutions have led to the overthrow of absolute governments curtailing the equality and liberty of citizens. Had it been not so, there would have been no Magna Charta, no Bill of Rights and no Petition of Rights. There would have been no French revolution. In India also there would have been no Declaration of Independence and, on a larger, scale; there would have been no awakening in Asia, Africa and Latin America.

The growth of social and democratic institutions further created an awakening in men not only to demand these basic human rights but also written guarantees for their implementation. The age old theory of natural rights could not fulfill the needs of men and they asked for written guarantees in the constitutions. These written guarantees, afterwards, came to be known as 'rights'. Laski regards rights as "those conditions of social life without which no man can seek in general, to be himself at his best."\(^6\) Since it is the responsibility of the State to create those conditions; it should be given the necessary powers. Almost all written

constitutions of the modern world, guarantee such rights on account of which a democratic state can justify the very purpose of its existence viz.

Providing the opportunity to the individual to unfold his potentialities and to rise to the maximum of which he is capable.\textsuperscript{97} A legal guarantee is more sacred as it is enforceable by the courts of law. These are called 'fundamental' because, while ordinary rights may be changed by the Legislature in its ordinary process of legislation, a fundamental right, being guaranteed by the constitution cannot be altered by any process shorter than that required for amending the Constitution itself. Also it cannot be suspended or abridged except in accordance with the manner laid down in the Constitution.\textsuperscript{98}

In the present century, among all the guarantees promised by the constitution, guarantee to equality, has been regarded as the pivot of all basic rights. This is so because of the development of socialistic approach for the eradication of social inequalities from the masses. It is on this equality that whole of the mansion of rights is built. It would not be an exaggeration to say that without a suitable guarantee to 'equality' in any constitution, the whole concept of fundamental rights becomes useless. Without the 'right to equality' all other rights are reduced to nothing. Due to the ever increasing demand for social upliftment of the masses the concept of equality has by now become a basis of all other rights. Otherwise the dream of a 'Welfare State' can never come true.

So far as the constitution of India is concerned it enshrines the fundamental rights which are necessary for the development of the personality of the individual. They are the harbingers of a better life for the people of this country. They represent the transmutation of all that the people fought for against the British rule in this country. Having suffered the inequalities, during the period of foreign imperialist rule in this country, it was but natural that the 'right to equality' should be provided in the Constitution. The foreign rule and the consequent exploitation by it created a complex of inferiority among the people. It was,


therefore, essential that this right be guaranteed in order to restore a sense of equality.

The age of old traditions has also been responsible for the creation of social inequalities in this country. If India was to march on the path of progress every citizen should have to share that burden and that could only be possible when as an equal partner he would march shoulder to shoulder with his fellow citizens. The 'right to equality', therefore, is a very significant right which is bound to create social revolution in India. Hence the independence dawned on our country, gave an opportunity to the framers of the constitution to fulfill the long cherished dream of Indians by providing them equality as a right—which in effect guarantees that:

“All persons similarly circumstanced must be treated equally both in the privileges conferred and in the liabilities imposed by the laws.”

Besides, they were worried about the eradication of several prevailing social evils. This, they thought, would not be possible unless all Indians were treated on equal footing not only by one another in mutual dealings but by the law itself. It was in these circumstances that the 'right to equality' was given the first and prominent place among the family of rights provided in the Constitution of India. Part III of the constitution is primarily reserved for the fundamental rights, but the framers got their incentive and inspiration from the 'Right to Equality' because this right itself is based on the 'social values of the society.'

Time, however, is not static, nor the social values. Therefore, with the changing values and circumstances rights are bound to change or be modified. As discussed earlier, the concept of equality has been changing steadily in society. It would, therefore, be very difficult to say that the 'right to equality' should remain in the same form without any alteration as was envisaged by the constitution makers. It is necessary in case there is a change in social order and thinking. Otherwise, totally rigid laws would stultify future progress. Therefore, in order to achieve a 'Welfare State—as explicitly envisaged by the framers, a readjustment of the rights, particularly the 'Right to Equality', as a result of economic

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Satish Chandra vs. The Union of India, AIR 1953 SC, 250, 252

reconstruction and social reforms being implemented in the country, would be of the utmost importance. Thus we have seen how definitional equality has defined the task of our society. Logically we lend ourselves into the second chapter seeking clarification for constitutional position of equality in India.

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