CHAPTER II
(i) SOCIAL JUSTICE (POST-INDEPENDENCE OVERVIEW)

Conception of justice and equality are undoubtedly normative and involve common acceptance of moral values. Every society has looked upon both of them as cardinal virtues which all citizens must follow. For this reason each society embodies in its social structure in various shapes and forms. No society has succeeded in fully practicing both or either. The notions of justice are exceedingly hard to define. A just society must start with the axiom that human beings are unequal in their endowments and that no matter whatever is done with nature, nature imposes disparities. Given equal opportunities, or, rather equi-proportional opportunities, these disparities can be toned down. A just society is one in which competing claims of unequal persons are sought to be reconciled by variety of means such that the social dividend is fairly distributed. Effective means for achieving distributive justice is the hallmark of a just society. In order to safeguard distributive justice, exploitation has to minimized in all forms.

In a developing, much more a developed free market economy, the ends of distributive justice are subverted by the fact that corporate power is unequally distributed. In any theory of just and equitable society causal nexus must never be overlooked. A further threat to a just society emerges from a different source. Between nations and also with in nations, there are not only classes but ethnic groups with the development of capitalist enterprise the interest of ethnic groups tend to clash such that the weaker and less organized group is subjected to various forms of exploitation. Distributive justice is closely linked with the problem of balancing the interest of the present against the future. Intergeneration balance has gained
in importance with the increase in the life span of population and the break up of joint family.

India has tried to achieve in building up a just and equitable society in the post independence period. In the preamble to the constitution of India (1950) it was solemnly resolved to ‘secure to the citizens social economical and political justice and equality of status and opportunity.’ The Directive principle of state policy (Section 39) enunciated that

"the state shall in particular, direct its policy towards securing (a) that the citizens, men and women equally have the right to an adequate means of livelihood (b) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good; (e) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment."

As far as social aspects of justice and equality in India after independence is considered, the term social is wide enough to include almost any thing related to human relations. It is therefore, necessary to delimit its domain. When we propose structural aspects which includes family, caste and kin group and ethnic groups. Naturally the status of women and children are subsumed.

The pre-dominant trend in this period is the emergence of a middle class in the rural and urban areas mainly depending upon earning their living from a burgeoning public and private sectors. The middle class ethos has spread to the villages with the spread of Kulak farmers. This has led to consumerist society with all attending virtues and vices. The growth of consumerism is perhaps the most potent cause of growing sense of
inequality and deepening feeling of injustice among the low income groups. In conjunction with this consumerist culture, a growth of casteism in post independence, India was witnessed. This was basically hierarchic and equitable. The casteist grip has strengthened in politics, in business and in agriculture. As a result, Indian social structure became more divisive. No doubt the avowed policy of government has always been to disavow caste yet elections are won on the strength of caste alliances and in some states the party lines are clearly aligned along castiest lines. Unfortunately, no trends are visible which would persuade are to believe that the caste virus is weakening and in virulence and in spread out. Thus as a result the social and economic disparities between Scheduled and non-Scheduled castes, and tribal and non-tribals have widened.

India was among few developing countries where women could participate with men on no less uneven terms in social and economic spheres. For an educated women, specially from elitist classes, there were plenty of opportunities and these opportunities were confined to those who come from upper classes and can go to reputed school and colleges. But for the unprivileged the social ladder is extremely short, narrow and partly broken. In addition to the economic, the social exploitation of women from low income groups worsened over years. India also employs the largest number of children especially in the informal sectors. They happen to be the most vulnerable to oppression with the growth of poverty, the economic values of children's labour has risen and lower income groups prefer to have large families since they can add to the house hold incomes from the age of 4-5 years or even less. The incidence of injustice and inequality is greatest for children for they are defenceless against their own parents, guardians and much more against employers.
The founding fathers of our constitution wanted India to be a political but a social democracy also in any theory of justice and equality the distribution of civic obligation have to be carefully balanced against human rights qua ‘human rights’. Any society which modifies these rights and duties on the basis of religion, race sex or other non secular divisions ceases to be a free and just society. Since Indian polity claimed to be secular, it has allowed religion and language to be the permissive basis of political parties. It did not strive for a common civic code for all citizens. It compromised with anti-secular forces which used religion as a bargaining counter for going sectarian ends, not for all citizen but for only few. Similar compromises were made on the basis of language. Beside this our policy also shows another structural weakness. An open society is one where as adequate social system is built up where by the genuine needs of the common people are constantly put under surveillance by a band of workers in the field. They send timely signals to the administrators; the legislators and the press. This class responds quickly and efficiently to the felt needs.

The over all picture shows that the Indian polity is full of light and shade. The judiciary and the press do not get high marks for upholding the cause of justice and equality. Yet the state, is not firm in challenging and overcoming the communal threat. The securalist ideal is receding into distance because of the compromises made with the communal forces by our political parties. The multi ethnic society must play according to the rules of the game which a state cherishes. The clouds that are gathering on the horizon can only be dispelled if only no ‘suitable’ changes are made in these rules.

Let us now proceed how far the administrative structure in this country subserves, how far it subverts, the ends of social justice or inequality. It is seen that the administrators in India has lost the confidence
not only the administered by of his own. In the district it is distrusted beyond measure. The general feeling is that he is amenable to the political pressure from the legislators. His integrity is no longer above suspicion. The number and range of administrators have expanded beyond measure both at the centre as well as in the states. Despite of the extension of executive staff the decisions are never fair and quick. Few executive can be relied upon to stand for the economically deprived and politically weaker sections. Indeed there is receding in the justice and fair play. Almost everywhere the common man is suspicious that a public official, whether high or low can be influenced out by the rule of law. If there is adequate pulls and pressure, all the administrators bends before the strong and mighty. As a result in some states law and order became more and more inefficient. The police have lost respectibility. Policeman in all states is an instrument for oppressing the weak, the poor, or the deprived.

This depressing trend cannot be explained in words. Administration in any society largely depends upon the values actually pursued by its ruling class and the ethos they build up. The rule of the game are framed and followed at this class chooses. In the last decades the principal rule has been to capture political and economic power. The politics of expediency also effected the ethos of the administrator which resulted in the suffering of his credibility.

(ii) JURISTS AND JUDICIAL VIEW, VARIOUS TÉRMONOLOGIES USED:

Justice is a vast subject with many topics and sub-topics. It is very difficult to define it some thinkers are of the view that its meaning is to raise "an unimportant verbal question to which no definite answer can be given" For example, Stevenson warns us against trying to find any definite
meaning of the term justice. Beside this many other thinkers are having more positive attitude about justice. Walter Kautmann has traced the origin, like Kant’s categorial Imperative, to a kind of inherent moral sense in man.

Inspite of innumerable theories, a few scholarly studies concern themselves what really justice is. The term justice is used in descriptive form or in operation of the legal system. Justice is derived from the root ‘jus’ which means law. So literally speaking ‘just’ would mean a state of affairs which is in accordance with the law. If it is in accordance with the natural laws it would be natural justice and if in accordance with social and political laws, it would be social and political justice. In the beginning of recorded moral and legal thought the term justice was used as equivalent to righteousness in general. Justice was considered as complete in confined with the approved pattern of moral conduct. One of the most famous definitions of the justice is given by the Roman lawyers enshrined in a code “Justice is the constant and perpetual will of rendering to each his right”. Even older than this, Cicero defined it as rendering to each his own. But the earliest and the fully developed account of justice can be attributed to the Greek philosopher Plato. According to him, justice involves giving each person his due. Plato’s main problem was to determine a person’s due. He has tried to solve the problem by providing a functional analysis, which was basically shared by Aristotle as well. Justice is to be analyzed in terms of functions. To assert of something that it is performing its function is the same as saying that it is performing justly. Individually Plato thought that human beings have souls which are composed of appetite, will and reason. A just person would be one who has a harmonious soul. This harmony occurs when each part of the soul performs its appropriate functions. And according to Plato the individual soul is a microcosm of the state. A just
state is a harmonious state where each class perform its appropriate function. For Plato justice occurs when every thing is in proper place. In Platonic view, it is unjust and corrupt to place people in jobs they cannot handle well. But the toughest job in this case would be to determine each person’s due. Broadly speaking justice has been taken in the sense of a principle of righteousness, a principle of unity or harmony or a principle which brings about an order in the nature of thing. Corresponding to the term ‘justice’ we have the term ‘Dharma’ in Indian philosophy which stands for righteousness. The word Dharma is derived from the Sanskrit root ‘Dhr’ which literally means ‘what supports’ or ‘upholds’. It is supposed to be that principle which sustains the social order, protects people and bring about social cohesion justice works at three levels namely, at natural level, at social level and at individual level. At natural level justice means cosmic or universal justice which is exhibited in the orderly principle of cosmic harmony. Its counterpart in Indian philosophy can be found in the term “Rta” which was prevalent in the vedic times and it literally means course of things. As a cosmic law ‘rta’ is the ground of determination of various phenomenon of nature. It reigns supreme every where in the sky, in the sun, in the mountain and on Earth. ‘Rta’ was considered to be completely autonomous in its functioning. Not even gods could transgress its authority. It stands for law in general and immanent justice. This very concept of ‘Rta’ is reflected in the doctrine of ‘Karma’ in the moral sphere which states that in according to good or bad actions man with have good or bath births. This doctrine of Karma holds every individual responsible for his actions. This doctrine can be called an example of providential justice.
The concept of social justice is one of the perennial question of legal and social philosophy. It has produced many normative and stipulative replies.

The question arises whether justice is a social concept or whether it is something which a man has towards himself? According to Socrates justice primarily is a quality of the soul which has its various parts well operated with respect to one another. Similarly according to Plato, justice is a complete expression of the soul’s excellence. It is very epitome, the totality of virtue. But according to Nichomache Ethics, justice is placed in front of all moral goodness because it is exercised not for one's own but in relation to our neighbour. No, doubt justice as righteousness can also operate at individual level as virtue, it is conceived primarily as a concept that applies to man in his social relations. Justice only occurs where many man are gathered together in a social relationship. According to Hobbes “it is a quality relating to men in society, not in solitude.” Kelson calls its primarily ' a quality of the social order'. R.W. Bardwin goes to the extent of saying that justice being essentially a quality of the behaviour of one man to another that is of men in society, all justice is a social justice.

The second question that arises is whether social justice refer to an actual state of affair in society or is it a social norm? The answer is that, most of the theories agree that justice is a social norm which supplies a guide or a directive by which men can regulate their actions towards their fellowmen. The ‘just’ thing is what are ought to do and the unjust thing what ought to be avoided. Justice is thus frequently spoken of as a norm, a standard, a criterion or a measure by which men may judge or evaluate human actions. The normative character of justice puts us on trial of another question; whether justice is essentially a moral concept, where
justice stands for the objective human necessity of changing the unjust situation by resolving the contradiction between how men lives and how he ought to live. The necessity of Ethics is the necessary for codes and rules of conduct by which human relations can be regulated in society, so justice is a concept which is used for evaluating men and their actions in social context. To say X is just is to evaluate X as good; and as to say X is unjust is to evaluate X is bad. In this sense justice can be called an approbative concept as well. According to R.M. Hare 'justice is a word of commanding like good' and is used to guide choices. Similarly Sidgwick declares it a 'Quality which it is ultimately desirable to desire to realize in conduct and the social relations of men'. Again since justice is an evaluative concept, it is obligatory because it imposes an obligation or duty on the members of society.

The third question which arises is that whether one of the most fundamental questions regarding justice is its relationship with legality or laws. A common impression is that justice is a matter of law and legal procedure, that then is no justice without law. The main problem is whether justice depends upon law or an invention of law or whether justice is itself a criterion of law? Or in other words: whether law determine justice or whether justice precedes law and laws are formulated just to protect or maintain justice Hobbes, Kelsin, Austin etc. make law as the standard of justice, according to them justice arise only in connection with law, and that law itself is independent of justice. In fact their aim is to eliminate dualism between law and justice. The 'Just' is same thing more than legal. When consideration is taken an action which is legal without being 'Just'. It is normal for people to disapprove of those who take advantage of the law to their own profit and to the discomfort of others. The term 'legal' cannot replace the word just.
The fourth question which arises is that, since justice is of normative character, it is relative to a particular society Man’s understanding of justice of what is just or unjust, changes and develops through the course of time and differs in different cultures and civilizations. The enslavement of men and subjection of women were once thought to be in no unjust. But these very things are no longer approved hence they are not considered to be just. Due to the development of human knowledge and progress in culture, the scope of justice has been immensely enlarged.

Lastly, the most fundamental aspect of justice is its relationship with equality. The question which arises is that what is equality? One point of view is that equality lies in treating equal as equals. Justice then is treating equals equally and un-equals, unequally. But difficulty lies in giving content to this formula. Egalitarian position is that all people are treated as alike and therefore just society is strictly the egalitarian society in which everyone is treated alike. But the main difficulty is that that people are not sufficiently alike to be always treated alike Psycho-Physically they are different. Their needs, abilities, contributions and interests are not alike. So from physical point of view individual differences are those real facts which cannot be ignored in the social justice. And to treat the individuals as if they were identical would be to commit great injustice. It is not that extreme equality is unpractical. It is that extreme equality is unjust. Thus the main problem of the justice is to bring about a strict correspondence between natural equality and social inequality. This point is made very clear in Rousseau’s celebrated discourse on equality. Durkheim’s idea of just society is simply that is one in which social inequalities exactly express natural inequalities. Natural inequalities means inequality in ability, merit or talent.
The problem of natural inequality is best depicted in the Hindu order of Varnas or castes. This system divided the whole society into four varnas i.e. Brahmin, Kshartriya, Vaishya and Shudras. These varnas correspond to the natural order of things i.e. they believed that each individual was endowed with some Gunas or qualities or some combination of them. And in a just society there is a correspondence between a person’s quality and his social position or varna. Each varna has its own set of Dharmas. Justice lies in the proper functioning of these varnas. Dharma at social level is that correspondence between a person’s quality and his social position is distributed. Even Mahatma Gandhi believed that the division of people into four varnas is not a human invention but an immutable law of nature. Though basically varna scheme was based upon natural qualities of a person, but later on it enjoined upon the individual to follow the traditional callings of their forefathers. Mahatma Gandhi recognizes the connection between varna and birth but did not condemn it because according to him all varnas are equal and the feeling of inferiority and superiority were perversions of varna Dharma and inconsistent with its basic spirit.

The idea of equality and inequality seems to have special place in the modern society. On one hand, there is a strong attachment to equality, as in the principle of equal opportunity and on the other hand, there is a striking pre-occupation with sorting out and ranking them according to their natural abilities, aptitudes and qualities.

Conclusively speaking the search for justice is the search for that social order where conflict interests shall be replaced by harmonious human relations. The harmonious relations are only possible when every human body is placed in society according to his own aptitude. The concept of harmony, balance, equilibrium or reconciliation of interests has been the dominant theme in treatment of justice from Plato to Roscoe Pound.
modern democracy, it is the function of justice to blend the different tones of society into a satisfying wholeness.

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CHAPTER II (B)

CONSTITUTIONAL CONCEPT AND SCOPE OF SOCIAL JUSTICE

(i) CONSTITUTIONAL CONCEPT:

The political freedom will have no meaning without social and Economic justice to the common people. This is the theme of Directive Principles of state policy. These principles aims at bringing about a non-violent social revolution. It is through such a revolution that the constitution seeks to fulfil the basic needs of the common masses and to change the structure of our society. The constitution visualizes that the society as a whole and every member of the society should participate.

According to Austin "The core of the commitment to the social revolution lies in the fundamental rights and in the Directive Principles of state policy. There are the conscience of the constitution\(^1\). According to Austin Fundamental Rights and Directive Principles are like two wheels of a chariot, one no less important than the other. They are just like twin formula for achieving the social revolution. Austin has rightly said that the Directive Principles were incorporated in the constitution of India with the hale and bloom that same day, the tree of true liberty would bloom in India\(^2\). The Fundamental Rights and Directive Principles thus "connect India’s future, present and past adding greatly to the significance of their inclusion in the constitution and giving strength to the pursuit of social revolution in India. They aim at making the Indian masses free from the positively endangered by the countries of coercion by the society and the physical condition that had prevented them from fulfilling their best selves."\(^3\).

Dr. B.R. Ambedkar proposed Directive Principles in the constitution and he emphasized its meaning and implication in the following words "we do not want merely to lay down a mechanism to enable people to come and capture power. The constitution also wishes to lay down an ideal before
those who could be forming the Government. That ideal (1) is economic democracy. In my judgement the Directive Principles have great value. For, they lay down that our ideal is economic democracy. Because we did not want merely a parliamentary form of Government to be instituted through the mechanism provided in the constitution, without any direction as to what our economic ideal or as to what our social order ought to be, we deliberately included the Directive Principles in our constitution. \(^4\).

According to Hayak the term 'social justice' is intellectually disreputable the marks of cheap Journalism\(^5\). According to Hord Devlin 'Social justice is above law; it is a body of principles with which the law should confirm. Social justice guides the law maker;' The law guides the judge\(^6\). The phrase 'social justice' has been used in the constitution after due deliberation. We have to understand its meaning with reference to given provisions of the constitution and the existing society. In different cases, Gajendragadkar, C.J. expressed the view that Fundamental rights and the Directive Principles of state policy contained in Articles 38, 39, 41, 46 constitute the meaning of social justice in India. But it is submitted that the social justice act to vary with the populism prevailing in a given situation, e.g. Right to property would be regarded as a component of social justice, whereas after the 44\(^{th}\) Amendment in 1976 it would not be regarded so.

The founding fathers of our constitution clearly laid down Socio-Economic justice as a goal to be achieved by the future Governments in India, and did not favour the idea of incorporating in the constitution particularly means to achieve it. Thus every Government which purports to act within the constitution frame work is duty bound to strive to secure Socio-Economic justice for the citizens.

This further takes to understand the real meaning of the concepts of Socio-Economic justices. The opinions expressed by some of the members
in the Constituent Assembly may, perhaps helps us to find out its real meaning in proper context.

According to M.R. Masani, the phrase “Socio-Economic justice”, clearly rejects the present social structure and the social status quo. It also means, that the people of this country, so far as any constitution can endow them, with great social security - the right to work or maintenance by the community. In Masani’s view, the Objective Resolutions also, envisages for reaching social change - social justice in the fullest sense of the term - but it work for those social changes through the mechanism of Political Democracy and individual liberty.

Speaking on the same subject, Seth Govind Das said: “Keeping in view the conditions of the world and the plight of India, we can say that our Republic will be both democratic and Socialistic. If true place is to be realised through socialism. No other system can give us the true place. As to Economic justice, N.V. Godgil said that it could only be secured if the means of production in the country are owned by the community as against the private individual. Refering to Socio-Economic justice contemplated in the Resolution S. Radha-Krishana said that it intended to effect a smooth and Rapid Transition from a state of servitude to one of freedom. According to the need for such a chance, he said, ‘It is therefore necessary that we must remake the material conditions; but apart from remaking the material conditions, we have to safeguard the liberty of human spirit.

The preamble of the Indian constitution states that the people of Indian have solemnly resolved ‘to secure to all its citizens - Social, economic and political equality of status and of opportunity. The Objective Resolution from which the above phrase has been curved out states. ‘The Constituent Assembly declares its firm and solemn resolve to draw up for her future governance a constitution.'
“(a) Where in shall be guaranteed and secured to all the people of India justice, social Economic and Political; Equity of status, of opportunity, and before the law ...... and
(b) Where in adequate safe guards shall be provided for minorities, Backward tribal areas, and depressed and other backward classes”.

The concept of Socio-Economic justice which is enshrined in the preamble contains the aspirations of the people of India who have established the constitution.

The Supreme Court in Minerva Mill’s Case observed that the edifice of our constitution is built upon the concepts crystallized in the preamble. Words ‘Social Justice’ used are capable of different meanings and connotations. The term ‘Social justice’ or its variants ‘justice Social and Economic’ occurs in the preamble and Article 38 of the constitution. This term face critical comments by some jurists. C.K. Allen says that we hear much today of ‘social justice’, I am not sure that those who use the term glibly know clearly what they mean by it........ but whatever ‘social justice’ does ,mean, it is certainly same thing very different as Aristotle conceived it.”

Under the concept of welfare state, the primary function of the state is to attack the problem of poverty. Democracy realizes that this problem which concern an overwhelmingly large number of citizens cannot be successfully met unless it wisely uses its mighty weapon of law and attempts to restore balance to the Economic structure and to remove the cause of Economic tension from the body politics of the community. All attempts made by democratic legislators to meet the challenge of poverty constitute attempt, to give the citizens of state Economic justice. Equality of opportunity to all citizens to develop their individual personalities and to
participate in the pleasures and happiness of life is the goal of economic justice. Social justice as distinguished from Economic justice has a special significance is the context of Indian society. Social justice in the comprehensive sense includes both Economic and Social justice.

The concept of social justice is thus a revolutionary concept which gives meaning and significance to the democratic way of life and makes the rule of law dynamic. The concept of social justice creates in the mind of masses of this country a sense of participation in the glory of India's political freedom. When the Indian democracy seeks to meet the challenge of Socio-Economic inequality of its legislative process and with the assistance of the rule of law, it virtually seeks to achieve economic justice without any violent conflicts.

Social justice, in short is the harmonization of rival claims of the interest of different groups and sections in the social structure by means of which alone is possible to build up a welfare state.

Social justice requires abolition of all sorts of inequalities which arises due to wealth, race, case, religion and title. Thus the provision for humane conditions of work, maturity relief, leisure and cultural opportunities to every individual; prevention of exploitation of child labour and industry, provisions of free primary education for all, the promotion of the educational and economic interest of the backward classes, are all programmes of social justice.

The ideal of economic justice means that there will be no distinction between man and woman from the stand point of economic value. In short, it means equality of reward for equal work (Article 39(d)). Every man should get his just dues for his labour, irrespective of caste, sex or social position. It means the abolition of those economic conditions which ultimately result in the inequality of economic value between man and man, viz, the
concentration of wealth and means of production in the hands of a few (Article 39(c)). Though our constitution is not tied to any particular school of social philosophy like socialism, communism, or the like and though it does not advocate state ownership of the means of production. It holds out the above ideals of economic justice in the Directive Principles of the state policy.

(ii) SCOPE OF SOCIO-ECONOMIC JUSTICE:

The Socio-Economic Objective of the constitution found elaborate expression in the incorporation of 'Directive Principles of State Policy' in the part IV of the constitution. It indicates that the framers of the constitution wanted to establish Economic democracy. Through the 'Directive Principles', they wanted to give Socio-Economic content to the Political Freedom.

While laying down the Directive, the framers of the constitution intended to set out the aims and objectives for which the people had cherished for, following the great renaissance witnessed in the second half of the 19th century, and which provided for the motivation for the peaceful Revolution and the Programme of social reconstruction and economic upliftment inaugurated by Mahatma Gandhi and many other leaders in the 1st half of this century.

This objective was intended to be achieved, partly, by the grant of equal fundamental rights equally to all and by making them justiceable and enforceable against the state by the Supreme Court, and partly, by requiring the state to frame its policies and plans in accordance with the directives which without confessing any individual rights upon the people set out certain objects of the National public policy and heads of public purposes.
It is intended to achieve Socio-Economic justice and equality and peaceful revolutions without the ethos of class struggle. The Directives are in general framed with a view to accommodate the views of the many.

As a matter of fact most of the principles laid down in the part IV of the constitution related back to 1931. When the Indian National Congress resolved that the state should safeguard the interest of the people. The law minister in the Constituent Assembly proposing for the Directive Principles said that certain directions had to be given to parliament and Government as to how and in what manner they should exercise their legislative and Executive powers so that these principles could in fact be materially realized in all respects. The Government was supposed to function in such a way so as to bring reforms under those Directive Principles which were not to be impaired in any provision of the constitution.

The Directive Principles have been prescribed as the fundamental guidelines for the republic form of Government. Therefore it is the supreme duty of the state today to apply these principles in making law for the governance of the country. If the state fails to perform this positive duty, it will be a breach of the duty. The basic aim of the policies of the state specified in the part IV of the constitution is to promote the welfare of the common man and to bring the radical Socio-Economic changes in the structure of our country so that the country’s all round advancement could be accelerated. The main aim of the Directive Principles is to fix certain Social and Economic goals so that social change may come in the society by peaceful revolution. This revolution is inevitable to fulfill the basic needs of the common men. Therefore, the need of the time is that for the successful democratic system with socialistic aim, an effective implementation of these positive obligations enshrined in part IV of the constitution is an imperative.
If any Government of the day ignores them, the people of this country will also ignore it at the polls.

The sole purpose of the law is that it exists for the well being of the people and to establish such social order in which justice social political and economic be available to them. That is why the Supreme Court has given a fresh look to the importance of the Directive Principles in the Kerala Education Bill 23. Hanif Qureshi Case 24. In Kameshwar Singh case 25, the Supreme Court involving community interest over individual interest, while Hidayatullah J. in Sajjan Singh case 26 placed rights of society over the individual with the time gap the Supreme Court through Keshevananda Bharti case 27 has guaranteed hope in the mind of the Indians that Directive Principles have limited Primacy over certain fundamental rights also.

In Minerva Mill Case 28, the Supreme Court realizing the importance of the Directive Principles of the State Policy. For over all welfare of the people and to meet the end of Socio-Economic justice opined that in case of conflict between then Fundamental Rights and Directive Principles of State Policy, the latter would have preponderance.

Regarding the Preamble and the Directive Principles together makes it clear that attainment of Socio-Economic justice was the goal of republic. The Directive Principles have been declared to be fundamental in the governance of the country and it shall be the duty of the state to apply these principles in making laws 29. The main object of the Directive Principles is to direct the state to secure for the citizens men and women equally, the right to an adequate means of livelihood, better distribution of resources of the community and to check the evils of concentration of wealth, Equal pay for equal work; Protection against abuse and exploitation of worker’s necessity; the protection of their health and strength, to secure for children opportunities and facilities to develop in healthy manner and in conditions of
the freedom and dignity\(^{30}\) and to protect childhood and youth against exploitation\(^{31}\). The state is to secure equal justice and free legal aid\(^{32}\). The state is required to make provisions for securing the right to work, to education and to public assistance in case of unemployment, old age sickness or disablement and in other cases of undeserved wants\(^{33}\). The state is enjoined to make provisions for just and humane conditions of work and for maternity relief\(^{34}\). The state shall secure work of a living wage, and conditions of work ensuring a decent standard of life\(^{35}\). The state is to take steps to secure the participation of workers in the management of industries\(^{36}\). The state shall endeavour to provide free and compulsory education to all children until they complete 14 years of age\(^{37}\). The state is to promote with special case the Education and Economic interests of the weaker sections of the people particularly the Scheduled Castes and Scheduled Tribes and protect them from social injustice and all for not of exploitation\(^{38}\). The state shall consider among its primary duties to raise the level of nutrition and the standard of living and the improvement of public health\(^{39}\). The state shall endeavour to organize agriculture and animal husbandry and should take steps for preserving and improving the breeds and prohibiting the slaughter of cow etc.\(^{40}\).

As we know that, the Hindu social structure is based on castes and communities which creates wall and barriers of exclusiveness. It also creates the feeling of inferiority and superiority. This creates social inequality and this is another serious problem to the democracy in India. This social inequality a particularly reprehensible form in relation to backward classes and communities which are treated as untouchable; and so the problem of social justice is an urgent and important in India as is the problem of Economic justice.
The problem of poverty and unequal distribution of wealth industrial labour has become very conscious. Problem of poverty and social inequality prevails almost in all villages. Harijans citizens suffers from social inequality and Economic inequality. They constitute a large class of landless, labourers who are treated as untouchables by the rest of the community. Their condition is very miserable, they have no houses to live in, no clothes to wear, they do not get food to eat and sometime even decent drinking water is beyond their reach. The concept of social justice in its comprehensive form regard, this as a blot an India’s policy and seeks to remove it fastly through the constitution and then by legislative process.

Part IV of the constitution contains Directive Principles of State Policy. These principles are no doubt unjusticiable and cannot be judicially enforced. It is obvious that the constitution makers expect the Government of the different states as well as the Central Government to bear these Directive Principles in mind and mould their policies from time to time so as to give effect to them. Article 38 requires that the state should make an effort to promote the welfare of the people of securing and protecting as effectively as it may a social order in which justice, social, Economic and political, shall inform all the institutions of the national life. In other words, the promise made by the constitution to the citizen of India in its Preamble is directly included in one of the directive principles of state policy. Article 39(a) requires that the citizens shall have the right to an adequate means of livelihood. Article 39(e) lays down the principle that the health and the strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by Economic necessity to enter avocations unsuited to their age or strength and 39(f) proclaims that childhood and youth should be protected against exploitation and against moral and material abandonment. Article 41 recognizes every citizens right
to work, to education and to public assistance in cases of unemployment, old age sickness and Disablement and in other cases of undeserved want. Article 42 stresses the importance of securing just and humane conditions of work and for maternity relief. Article 43 holds before the working population the ideal of the living wage, and Article 46 emphasizes the importance of the promotion, Educational and Economic interest of Scheduled Castes, Scheduled Tribes, and other weaker sections. These directive principles lay down a policy of action for the different State Governments and the Central Government and in a sense they recognize the validity of the charter of demands which the weaker sections of the citizens suffering from Socio-Economic injustice would present to the respective governments for immediate relief.

The social problem presented by the existence of a very large number of citizens who are created as untouchables has received the special attention of the constitution and the provisions made by the constitution in respect of this problem clearly indicates its importance. Article 15(1) prohibits discrimination on grounds of religion, sex or place of birth, but 15(3), 15(4) provide that notwithstanding the general prohibition contained in 15(1), the state would be entitled to make special provisions for women children for the advancement of any socially and educationally backward classes of citizens, or for the scheduled castes and scheduled tribes. In other words, the cases of women and children and the cases of persons belonging to the scheduled castes and the scheduled tribes as well as the educationally backward classes are treated as an exception to the general principle prescribed by Article 15(1). A similar exception is provided to the principle of equality of opportunity prescribed by Article 16(1) in as much as Article 16(4) allows the state to make provisions for the reservation of appointments or posts in favour of any Backward Class of citizens which, in the opinion of the state,
is not adequately represented in services. Article 17 proclaims that untouchability has been abolished and forbids its practice in any form and it provides that the enforcement of any disability arising out of untouchability shall be an offence punishable in accordance with law. Thus we can say that various provisions has been prescribed by the constitution of India for achieving the ideal of Socio-Economic justice in this country.

Marxian Prophecy that capitalism will destroy itself by cycle of wars, and that the proletarian can rise to power only by successful and violent class struggle, would be falsified if the ideal placed Indian democracy before itself, of achieving Socio-Economic justice, is reached peacefully, non violently be democratic process and under the rule of law. That is the significance and importance of the concept of social justice in the Indian context of today 41.

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31. Article 39.
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35. Article 43

36. Article 33A

37. Article 45

38. Article 46

39. Article 47

40. Article 48.

CHAPTER II (C)
SOCIAL FRAME WORK OF SOCIAL JUSTICE AND
EGALITARIAN IDEOLOGY OF DR. B.R. AMBEDKAR

The task of achieving rapid economic growth and reducing economic inequalities has always remained in the fore front of our state policy since independence. This commitments flows from constitutional provisions and Directive Principles of State Policy. The egalitarian ideology received prominent attention in all Five-Year Plans. Social equality, of which economic equality is only a part, has been regarded as the most important goals of development efforts. Directive Principles envisage economic and social order based on equality opportunity, social justice, the right to work, the adequate wages and a measure of social security for all citizens. The draft Five Year Plan conclusively states: “The basic goal is a rapid increase in the standard of living of the people”, and emphasis is placed on the common man, the weaker sections and the less privileged.

The constitutional provisions and plans provide prominent role for the state to achieve the objective of equality the first plan states: “The problem…….. Is not one of merely rechannelling economic activity within the existing Socio-Economic frame work; the frame work has itself to be remoulded so as to enable it to accommodate progressively those fundamental urges which express themselves in demands for the right to adequate income, the right to work, the right to education and to a measure of insurance against old age, sickness and other disabilities.”

The way equality goal is to be achieved has been clearly spelt out in the second plan: “all these measures should be harmonized and brought to a focus in a manner that would ensure an enlargement of incomes and opportunities at the lower end and a reduction of wealth and privilege at the upper end
The adoption of egalitarian ideology was guided by important social consideration. It is quite apparent that inequalities inherit in the traditional rigid caste stratification. It obstructs free, competition and social and occupational mobility. In extreme poverty it tends to make existing inequalities more rigid and unyielding. The restrictions imposed on social intercourse between different levels of caste tend to obstruct the emergence of feelings of brotherhood and compassion.

The critics of egalitarian ideology argue that historically, economic development has often led to greater concentration of wealth and power and thereby increased inequality in income and wealth. Myrdal argues that economic equality is typically the outcome of social inequality and reverse is also true. In view of vast majority of poor people, equality in income and wealth would have added value and inequality would simply means sufferings for them.

Our constitutional provisions and legislative measures forbid the practice of untouchability and prescribed safe guards for under privileged communities seeking promotion of economic and educational interests and removal of social disabilities and discrimination suffered by them. Subsequent plans provide increasingly allocation for this purpose.

The root of the problem lies in the fact that the untouchables are financially and economically dependent upon the higher castes, as the later exercise a near monopoly over production resources. Thus, the constitutional and legal rights and privileges guaranteed to the under privileged community carry little meaning unless they attain same measure of economic dependence.

Through caste system, Hinduism has sanctioned extreme form of inequality which is traditional in its origin. It tended to acquire religious
sanction and therefore efforts to promote equality are often construed as attempts to break the traditions.

Thus it is not surprising to say that the practice of untouchability and attended disabilities continue to operate in both urban and rural areas. Even official development programmes do not offend the feelings of high Hindu caste. The rural development programmes, subsidy schemes of reservation in educational institutions and jobs benefitted only a few. According to Srinivas such programmes have produced a previously unknown competition among the caste groups to be classified as backward for the purpose of receiving special programmes benefit and he concluded that, ‘by its reckoning about three quarters of the Indian people are “backward”’.

For the upliftment, emancipation of under privileged communities, a great reliance is placed on ‘comprehensive non-violent revolution’ and a psychological revolution among the economic, social and political elites. But all these programmes of improvement of masses operate mainly in accordance with the power structure. Those who enjoy power and make decisions generally belong to upper, well to do class. In context masses are generally poor, ignorant, inarticulate and stratified by caste and communal considerations. The poor believe that their inferior status is ordained by heaven. Under these circumstances, the clamour for economic and social revolution is more apparent than real.

Our plans have made strong commitment for achieving economic equality, but they did not seriously attempt as to how economic development should be guided to create greater equality. They generally lay stress an increases in total output. Many inegalitarian measures adopted by the Government, the favour middle and upper classes and discriminate against vast majority of the common people.

(i) AMBEDKAR’S SEARCH FOR SOCIAL JUSTICE:
Ambedkar’s life was a search for social justice, like the Harijans (dalits) of his time, Ambedkar has experienced the inhuman practice of caste system particularly untouchability.

“Dr. B.R. Ambedkar was all sound and jury against social injustice. His weaponry was legal political his anathema Hindu caste system enclusiveism and his ambition social democracy…….. His life was a flaming forge, his commitment was to free the ancient unfree, his economics, law and politics were welded into a constitutional militancy and geared to a social emancipation movement 9.

Dr. B.R. Ambedkar struggled for social justice, both in pre-Independent India and in the Constituent Assembly.

(ii) QUEST FOR SOCIAL JUSTICE IN BRITISH INDIA:

During his time Ambedkar was undoubtedly the most articulate spokesman of the exploited and the down-trodden in the Indian society, particularly of the Depressed Classes. He held pragmatic and uncompromising views on the amelioration of the sufferings of these classes and the role of government in this regard. In innumerable statements, representations and evidences he came out in support of adequate representation and constitutional safeguards for the Depressed Classes.

On May 29, 1928, Ambedkar submitted a statement before the Indian Statutory Commission (better known as Simon Commission) on his arrival in India. In his ‘statement concerning the safeguards for the protection of the interests of the Depressed Class as a Minority in the Bombay Presidency, and the changes in the composition of and the Guarantees from the Bombay Legislative Council Necessary to Ensure the some under Provincial Autonomy’ Ambedkar demanded protection through adequate representation for the Depressed Classes. He was in favour of taking into consideration population and social status to indicate the quantum of
representation. Moreover, it was the responsibility of the Government to ensure the spread of Education, to make no discrimination in recruitment and to provide for adequate safeguards: In his words:

"It must be admitted that population is a measure by which we evaluate the representation that is to be granted to any community...... It must however be recognized that the strength of the community cannot be taken as a sole factor in determining matters of this sort. The standing of a community is no less an important factor to be taken into account in determining its quota of representation..... It follows from the recognition of the principle that the lower the standing of a community the greater is the electoral advantage it must get over the rest. There can be no two opinions that the standing of the Depressed Classes, both educational and economical, is the lowest in his Presidency".

Dr. B.R. Ambedkar therefore demanded:

"that the education of the Depressed Classes shall be recognized at the first charge on the revenues of the province...... That the right of the Depressed Classes to unrestricted recruitment in the army, navy and police shall be recognized without any limitation as to caste. That for a period of 30 years, the right of the Depressed Classes for priority in the matter of recruitments to all posts, gazetted as well as non-gazetted, in all civil services, shall be recognized by the Provincial government".

And finally, Dr. Ambedkar insisted an adequate safeguards. The first essential of any scheme of reform is that adequate safeguards should be provided for the good Government of the inarticulate masses of the population.
On October 23, 1928 Dr. B.R. Ambedkar in another statement before the Simon Commission clarified two points. He said that Depressed Classes and 'untouchables' were synonymous and that the two classes must be treated as a distinct minority separate from Hindu community.

The Nehru Report Came, under Dr. Ambedkar’s indictment around at this time. The Nehru committee had been constituted by representatives of different political parties in 1928 under the chairmanship of Pt. Motilal Nehru to draft a constitution. In this document called Nehru Report, the committee had stated the problem of the ‘untouchables’ was a social or a religious problem, but not a political problem, therefore it made no special provision for the representation of the Depressed Classes in legislatures. Ambedkar in his editorial in Bahishkrit Bharat of January 18, 1929 wrote:

"If the problem of the untouchables is a social problem, is not that of Muslim also a social problem? The Muslim too suffer from the consequences of the distorted vision of the upper castes of the Hindus, in the same manner as do the untouchables...... It is our first conviction that the Nehru committee Brahminical Strategy aims at perpetuating the Hindu social hierarchy in their struggle for political power. What else could be the reason for its existing certain facilities to the Muslims and deny similar facilities to the backward and Untouchable classes of the Hindus?"

On May 17, 1929 Ambedkar submitted a Report on the constitution to the Government of Bomaby Presidency

Here he stated:

"The legislative should be wholly elective..... Reserved seats should be provided for Mohammedans, Depressed Classes and Anglo-Indians...... The legislature should consist of"
140 members; of the Mohammedans should have 33 and the Depressed Classes 15 .... There should be complete provincial autonomy .... There should be a provincial Civil Service. And a Provincial Civil Service Commission. Indianisation of the services should be made for the fulfilment of the claims of the Backward classes ....

A committee had been constituted by the Government of Bombay in November 1929. Dr. Ambedkar was a prominent member of this committee, popularly known as State Committee. The committee submitted its report to the Government in March 1930:

"The committee recommended scholarships and students' hostel. For the economic upliftment of the backward classes, it stressed on the need to recruit depressed classes in the police and urged that the present bar to the recruitment of the Depressed Classes in the army should be removed; that a Backward Class Officer should maintain list of qualified candidates from the backward classes and promote their recruitment; that hereditary services rendered by the backward classes should be enquired into; and that housing schemes for the backward classes should be promoted. On the social front, the committee recommended legislation to prevent dedication of devadasis: and that the social boycott be checked by propaganda and legislation."

At the Round Table conferences held in London during 1930-32 Dr. Ambedkar played a steller role and was able to focus British and world attention to the problems of the Depressed Classes and other weaker sections.
At the First Round Table Conference, Dr. Ambedkar spoke on his scheme of political safeguards for the protection of the Depressed Classes in the future constitution of India. He demanded that in the future constitution of India, the Depressed Classes should be given a fundamental right enacted in the constitution which with declare ‘untouchability’ to be illegal for all public purposes. “Secondly this fundamental right must also invalidate and nullify all such disabilities and all such discriminations as may have been made higher to…….” He demanded safeguards to ensure the right to adequate representation in the legislature. Speaking on joint versus separate electorates Ambedkar said, “we, the Depressed Classes demand a complete partition between ourselves and the Hindus. We have been called Hindu for political purposes, but we have never been acknowledged socially by the Hindus as their brethren.

At the same conference, Ambedkar insisted on recruitment for the Depressed Classes in the services. On January 4, 1931 Ambedkar submitted to the Round Table Conference, a ‘Supplementary Memorandum on the claims of the Depressed Classes for special representation, defining the details of the safeguards. He demanded for the Depressed Classes ‘representation in proportion to the their population as estimated by the Simon Commission and the Indian Central Committee. As regards the methods of representation, he demanded that ‘the Depressed Classes shall have the right to elect their representatives to the Provincial and state legislatures through separate electorates for their voters.’

On January 19, 1931, Dr. Ambedkar reminded the British Government its responsibilities towards the Depressed Classes. Dr. Ambedkar’s cumulative role in ensuring justice for the Depressed Classes had its desired effect upon the British authorities. On August 17, 1932, Prime Minister Mac Donald announced the ‘Communal Award’ creating separate
electorates for the Depressed Classes. These classes had been sanctioned a distinct status.

Unfortunately this joy was short lived. On August 18, 1932, Gandhi announced his decision to fast unto death, to resist the ‘Communal Award’. The untenable position of Gandhi on the issue becomes clear from the following words of Dr. Ambedkar: ‘separate electorates are granted not only to the Depressed Classes, but to the Indian Christians Anglo-Indians, Europeans, as well as to the Mohammedans and the Sikhs. Also separate electorates are granted to landlords and traders. Mr. Gandhi had declared his opposition to the special representation of every other class and creed, except the Mohammedans and the Sikhs. All the same Mr. Gandhi chooses to let every body else except the Depressed Classes retain the special electorates given to them.”

Dr. Ambedkar pointed out that his primary loyalty was to his people. “I trust the Mahatma will not drive me to the necessity of making a choice between his life and the rights of my people. For I can never consent to deliver my people bound hand and foot to the caste Hindus for generations to come. Ultimately however Dr. Ambedkar relented, and practically “saved the life of Gandhi by agreeing to amend, the Communal Award, in a manner agreeable to Gandhi. This was the Poona Pact signed by Dr. Ambedkar, Gandhi and others on September 24, 1932, in the Yervada Prison.

Dr. Ambedkar was terribly unhappy with the Poona Pact. When elections proved his misgivings true, he blamed the Poona Pact squarely for depriving scheduled castes of their genuine rights. Dr. Ambedkar ultimately lost faith in the British and discounted all hopes of securing social justice for his brethren under the British rule. He was of the view that adequate constitutional rights for the scheduled could only be secured only under a free constitution.
Dr. Ambedkar’s struggle for this marked by great expectations, hopes and aspirations, as well as disappointments and frustration. None the less this was a period of sustained hard work where valuable lesson were learnt. This experience played a major role in Dr. Ambedkars quest for constitutional rights and social justice in the Constituent Assembly.

(iii) **QUEST FOR SOCIAL JUSTICE IN THE CONSTITUENT ASSEMBLY:**

Dr. Ambedkar came to be closely associated with the Drafting of a constitution for free India as Chairman of the Drafting Committee and as a member of Advisory Committee as Minorities and Fundamental Rights. Dr. Ambedkar kept in mind the interests of the Scheduled Castes while participating in the process of Drafting the constitution. He said that he only come into the Constituent Assembly with no greater aspiration then to safeguard the interests of the Scheduled Castes. Dr. B.R. Ambedkar was a party to a general consensus in the Constituent Assembly that the term ‘Backward classes’ would cover three principal components, the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes. And Dr. Ambedkar addressed himself to the task of securing social justice for all backward classes in the country, under the mandate of new constitution.

(a) **THE FUNDAMENTAL RIGHTS:**

Dr. B.R. Ambedkar was the champion of the downtrodden. There was a need for a Bill of Rights in the Indian constitution. He was pleading continuously for an electorate system of fundamental rights for minorities for all citizens in general. His fight for social justice was the main plank in his struggle as the leader of minorities. According to him social justice could not be secured to one and all unless it was enshrined in the constitution itself.

One of the first tasks to which the Constituent Assembly addressed itself was the formulation of a bill of rights with pride of place accorded to
social justice and non-discrimination. Dr. B.R. Ambedkar described ‘the most criticized part’ of the constitution, part III dealing with Fundamental Rights. The Fundamental Rights in the Indian Constitution are more elaborate and comprehensive than in the Bill of Rights or in any other Constitution. Constitutional provisions aimed at preventing discrimination and promoting social justice are the Fundamental Rights guaranteeing equality before law and equal protection of law (Article 14), prohibition of discrimination as guards of religion, race, caste, sex or place of birth (Article 15), equality of opportunity in matters of public employment (Article 16), abolition of untouchability (Article 17), and prohibition of traffic in human beings and forced labour (Article 23).

It is clear from the above provisions that Dr. B.R. Ambedkar and the founding fathers made genuine efforts to constitutionally guarantee equality to the disadvantaged sections of the people. The provisions aimed to abolish social inequality, social stigma and social disabilities in our society.

Reacting to the exceptions and qualifications to the Fundamental Rights, Dr. Ambedkar pointed out that the whole criticism about fundamental rights is based upon a misconception. Firstly it seeks to distinguish fundamental rights from non-fundamental rights is not sound. It is incorrect to say that fundamental rights are absolute while non-fundamental rights are created by agreement between parties or fundamental rights are the gift of the law. Because the fundamental rights are the gift of the state, it does not follow that the state cannot qualify them.

Conclusively speaking, Dr. Ambedkar and the founding fathers did the right thing by emphasizing that the objective of the constitution was to establish an egalitarian society were rights are guaranteed not to few but to every member of the society. They firmly believe rich and poor are reduced. The right to equality of opportunity has no meaning. The Indian
Constitutional format in respect of human rights was a significant attempt at conflict resolution, for the delicate balance between political and civil rights on the one hand and social and economic rights on the other hand, or between the individual rights and demands of social justice.

(b) THE DIRECTIVE PRINCIPLES OF STATE POLICY:

While the Fundamental Rights guarantee the rights and liberties of the individual against arbitrary state action, the Directive Principles seek to emphasize economic and social goals. It was the intention of the founding fathers to incorporate into the constitution concepts and principles that should determine governmental activities which would bring about a social and economic revolution in the country. Pt. Nehru and Dr. Ambedkar believed that success of this revolution will be India’s survival.

Ambedkar defended the Directive Principles in the following words.....

"Whoever captures power will not be free to do what he likes with it. In the exercise of it, he will have to respect these instrumentals of instructions which are called Directive Principles. He cannot ignore them. He may not have to answer for their breech in a court of law, but he will certainly have to answer for them before the electorate at election time. What great values these Directive Principles possess will be realized better when the forces of right contrive to capture power 13.

Further, Dr. Ambedkar categorically stated that the Directive Principles were not intended to be mere pious declarations. "It is the intention of the Assembly that in future both the legislature and the executive should not merely pay lip service to these principles in this part, but that they should be made the basis of all executive and legislative actions that may be taken here after in the matter of the governance of the country 14."
Dr. Ambedkar defended the clause in Article 37 in the following words: 'A state first awakened from freedom with its many preoccupations must be crushed under the burden unless it was free to decide the order, the time, the place and the mode of fulfilling them'. He further stated: 'what should be the policy of the state, how the society should be organised in its social and economic matters must be decided by the people themselves according to time and circumstances. It cannot be laid down in the constitution itself, because that is destroying democracy altogether.

The Directive Principles strive to create a welfare state and a first social order. Where there is no social exploitation. Article 38 contains the essence of these principles: 'The state shall promote the welfare of the people by securing and protecting effectively as it may a social order in which justice-social economic and political shall inform all the institutions of national life.

(c) SPECIAL PROVISIONS:

The provisions of Part XVI of the Indian constitution are the special provisions for the Scheduled Castes and Scheduled Tribes, the Anglo-Indians and socially and educationally Backward Classes. Article 330 & 302 provide that the seats shall be reserved for Scheduled Castes and Scheduled Tribes in the House of the people and Legislative Assemblies of the state respectively. Article 331 & 333 provide for representation of the Anglo-Indian community by nomination by the President and the Governor, in case the community is not adequately represented in the union and states lower Houses. According to Article 334, such reservations is fixed for 10 years from the commencement of the constitution. According to Article 335 'claims of the members of the Scheduled Caste and Scheduled Tribes shall be taken into consideration, consistent with the maintenance of efficiency of administration, in making of appointment to services and posts in connection
with the affairs of the union or of a state”, Articles 336 & 337 deals with the special provision respectively for the appointments in certain services and educational grants for the Anglo-Indian community. Article 338 provides for a special officer for the Scheduled Castes and Scheduled Tribes to be appointed by the president whose duty is to investigate all matters relating to the safeguards provides for the Scheduled Castes and Scheduled Tribes and to report to the President. For the purpose of Article 338, references to Scheduled Castes and Scheduled Tribes are to be construed as including references to such other backward classes as may be specified by the President on receipt of a report from the commission which may be appointed under Article 340(1) Article 339, provides for the appointment of a commission to report in regard to the administration of the Scheduled areas and the welfare of the Scheduled Tribes. Article 340(1) provides for the appointment, by President, of a commission to investigate the conditions of educationally backward classes within the territory of India and make recommendations as to the steps taken by the union or any state to remove such difficulties and to improve their condition etc.

There were many in the Constituent Assembly who objected to the special provisions providing for reservation. The general consensus was however in favour of reservation of jobs for Scheduled Castes and Scheduled Tribes. Dr. Ambedkar had the last word when he stressed the importance of this provision to meet the demand of the communities which have not had so far representation in the state.

There was a protected debate in the Constituent Assembly on the desirability of restricting the concessions to a period of 10 years. Dr. Ambedkar preferred a more flexible policy, one had favoured a longer time to do the necessary leveling. But he let it lie and made the observation, ‘It at the end of 10 years, the Scheduled Caste find that their position has not
improved or they want further extension..... It will not be beyond their
capacity to invent new ways of getting the same protection which they are
promised here.”

Speaking in general about the special provisions that has been
incorporated into the Indian constitution Dr. B.R. Ambedkar made the
following observation:

“Speaking for myself I have no doubt that the constituent
Assembly has done wisely in providing such safeguards
for minorities as it has done. In this country both minorities
and majority have followed a wrong path. It is wrong to
deny the existence minority by the majority. It is equally
wrong for the minorities to perpetuate themselves. A solution
must be found which will serve a double purpose. It must
recognize the existence of the minorities to start with. It must
also be such that it will enable majorities and minorities to
merge someday into one. The solution proposed by the
Constituent Assembly is to be welcomed because it is a
Solution which serves this two fold purpose. To die-hards
Who have developed a kind of fanaticism against minority
protection, I would like to say two things. One is that
Minorities are an explosive force which, if it erupts, can
Blow up the whole fabric of the state...”

Thus, Dr. Ambedkar applied his mind in a remarkable manner to the
problems confronting the country. He was a great social reformer, a political
leader and a spiritual guide of the untouchables.

Ambedkar’s constitutional philosophy revolved around social justice
and change through perfectly constitutional means. He desired to create an
equal society through the process of constitution making. He dreamt of an
India where there would be no discrimination between man and man, no exploitation, no untouchability and no degradation Dr. Ambedkar approached the problem from the wide perspective of nationalism, democracy, humanity and justice. Dr. Ambedkar expertise as a constitutional expert went a long way in enshrining the concept of political democracy in Indian Constitution. According to Dr. Ambedkar political democracy cannot lost unless there lies at the base of social democracy. According to him social democracy means a way of life which recognizes liberty, equality and fraternity as the principles of life. Dr. Ambedkar also recognized the fact that the lofty ideals expressed in the constitution would remain as they were, given the nature of contradictions inherent in society. According to him this contradiction should be removed otherwise it will blow up the structure of social democracy which the Constituent Assembly has so laborously built up.

Since Dr. Ambedkar was aware of the existence of economic inequalities in the Indian society, and of its potential to 'blow up' everything. He well formulated views regarding the elimination of economic inequality. He had said:

"......... old time constitutional lawyers believed that the scope and the function of the constitutional law was to prescribe the shape and form of the political structure of the society. They never realized that it was equally essential to prescribe the shape and form of the economic structure of society, if democracy is to live up to its principle of one man one value........."

Dr. Ambedkar and the Drafting Committee were the agents of the Constituent Assembly. Dr. Ambedkar had played the role of technocrat applying his skill and acumen in drafting the constitution.
It is very unfortunate that Dr. Ambedkar’s views on the economic system to be adopted by the independent India did not prevail. Today, after more than four decades of Independence and the working of the Indian Constitution, it is also a fact that social injustice, continue to remain so formidable problem. It is also a fact that economic backwardness is the primary cause for all the sufferings of the poor, the backward and the downtrodden in the Indian society. Ambedkar had strongly warned that this inequality will blow up the structure of political democracy unless contradictions are removed and needs should be taken seriously.

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