Chapter - 1

JURISPRUDENTIAL STUDY OF LABOUR WELFARE AND DR. AMBEDKAR’S PHILOSOPHY

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Mankind's experiences through various evolutionary changes, from primitive times to the present day, have been many and varied. However man’s problems were never before as complicated as they seem to be today. Man’s economic activity centers primarily round production. Labour is said to be the primary factor of production and hence its role is given a lot of importance.

In the wake of industrialization human problems always follow. Such problems have many facets, one of them being the problem of providing adequate welfare for those who work. The situation is all the more complex in India where welfare must simultaneously meet the demands of social justice, political democracy as well as the needs of a developing economy.

THE CONCEPT AND SCOPE OF LABOUR WELFARE

The term welfare is derived from the French phrase ‘welfaren’ which means to farewell. The Chamber's dictionary defines the term welfare as “a state characterized by happiness, well-being or prosperity”. The term ‘welfare suggests many ideas meanings and connotations such as the state of well-being health, happiness, prosperity and the development of human resources.
In its broader connotation, the term welfare refers to a state of living of an individual or a group in a desirable relationship with total environment – ecological, economic and social. However, the environment not only shows perceptible differences from place to place but also undergoes metamorphosis over time. The “desirable relationship” may also vary among individuals and groups as well as over time. These variations impart dynamism to the concept of welfare.²

The term ‘welfare’ is a desirable state of existence involving the physical, mental, moral and emotional well-being. All these four elements together constitute the structure of welfare on which its totality is based.³

Labour welfare is an extension to the term welfare and its application to labour. The concept of ‘labour welfare’ is flexible, elastic and differs from time to time, region to region, industry to industry and country to country depending upon the value system, level of education, social customs, degree of industrialization and the general standard of the socio-economic development of the people. It is also related to the political situation in a country.⁴

The concept of labour welfare originated in the desire for a humanitarian approach to ameliorate the suffering of the working class. Later it became a utilitarian philosophy which worked as a motivating force for labour and for those who were interested in it.
The value base of the concept of labour welfare has behind it a long history through which it has struggled to assume its present form. During the early days of industrialization, optimization of profit was the main concern of employers. The relationship between the employer and his employees were characterized by a limited relationship based upon wages alone. The profit orientation of employers led them to take maximum work from their employees and pay them as little as possible. He was busy maximizing his profits irrespective of the human and social costs of his enterprise.

The employer's obligation to the worker was over with the payment of the contractual wages. Whether the wages were efficient to provide the worker with a decent standard of living or whether the worker was able to live culturally and socially a meaningful life was no concern of the employer.

It was in this context that philanthropies in general and some of the enlightened and considerate employers became conscious of the human costs of industrialization and wanted to bring about some improvements in the lives of the industrial workers, which they were themselves unable to provide with their meager wages. This was the beginning of welfare work in industries, which the employers voluntarily or under the pressure of enlightened public opinion undertook. Later on, some philanthropic societies came to be established and began some welfare work. Gradually, the trade unions
came on the scene and the state itself took upon a limited responsibility of promoting labour welfare.

Thus began an epoch which heralded a change in the nature of employer – employee relations. The employers started effecting, on humanitarian grounds, improvement in the working conditions and hours of work in factories. Gradually the employers started moving from self-regarding to others-regarding. They realized that the onus of serving the society devolved upon them as well and they started providing welfare facilities.

As the process of industrialization advanced, the stress on labour productivity increased. This brought about a change in the thinking on labour welfare. More and more employers came to regard labour welfare as a means of increasing production. An expert study done under the auspices of the United Nations observed, “in our opinion most underdeveloped countries are in the situation that investment in people is likely to prove as productive, in the purely material sense, as any investment in material resources and in many cases investment in people would lead to a greater increase of the flow of goods and services than would follow upon any comparable investment in material capital”

The theory that welfare expenditure especially expenditure on health and education is a productive investment led to the belief that workers could work more productively if they were given a fair deal at
the work place and in the community. Provision of welfare facilities was also though of as a means to attract labour force to the enterprise.

During the subsequent years, the concept of labour welfare received inspiration from the evolution of the social thought in regard to democracy and welfare state. Democracy does not simply denote a form of government; it is rather a way of life based on certain values such as equal rights and privileges for all etc. A wider acceptance of these democratic notions had effects on the concept of labour welfare in various ways. Under the changed conditions of today, when it has been accepted that the ultimate goal of all economic activities is the promotion of welfare of all the participants, promotion of labour welfare can not be said to be a voluntary function of the employers or the state. It is now accepted that the well-being of the workers is the first charges on the industry and, therefore, labour welfare is a compulsory obligation of the industries and their owners.

DEFINITION OF LABOUR WELFARE

Labour welfare has been defined differently by different people. No definition has as yet received universal recognition. The oxford dictionary defines labour welfare as “efforts to make life worth living for workmen”?
In the Encyclopaedia of social sciences labour welfare is defined as “the voluntary efforts of the employers to establish within the existing industrial system working and sometimes living and cultural conditions of the employees beyond what is required by law, the custom of the industry and the conditions of the market." Another definition conceives labour welfare as, “anything done for comfort and improvement, intellectual and social, of the employees over and above wages paid, which is not a necessity of the industry.”

Labour welfare is also understood to mean, “such services, facilities and amenities, which may be established in, or in the vicinity of, undertakings to enable persons employed therein to perform their work in healthy, congenial surroundings and to provide them with amenities conducive to good health and good morale." yet another definition is, welfare is fundamentally an attitude of mind on the part of management influencing the method by which management activities are undertaken.

The International Conference of social work at Munich in 1956 described labour welfare as, “services rendered to workers and their families by an industrial enterprise with the purpose of raising their moral, material social and cultural levels and to adjust to a better life."
The Rege Committee, in its report submitted to the government of India in 1946, said, "We prefer to include under welfare activities anything done for intellectual, physical, moral and economic betterment of workers, whether by employer, government or other agencies, over and above provided by law or under some contract and what is normally expected as a part of the contract for service."\(^{13}\) The Royal commission on labour (1931) understood labour welfare, "as one which is necessarily elastic, differing from country to country, according to different social customs, degree of industrialization and the level of educational development".

Another definition includes in labour welfare, "such services, facilities and amenities as adequate canteens, rest and recreation facilities, sanitary and medical facilities, arrangements for travel to and from work and for the accommodation of workers employed at a distance from their homes and such other services, amenities and facilities including social security measures as contribute to improve the conditions under which workers are employed,"\(^{15}\) Here it may be pointed out that, "social security is considered to be one of the important aspect of labour welfare".\(^{16}\)

The whole field of labour welfare is said to be one, "in which much can be done - to combat the sense of frustration of the industrial workers to relieve them of personal and family worries to improve their health to afford them means of self-expression to offer
them some sphere in which they can excel others and to help them to a wider conception of life.\textsuperscript{17}

Labour welfare covers all the efforts which employers make for the benefit of their employees over and above the minimum standard of working conditions fixed by the factory and over and above the provision of social legislation providing against accident, old age, unemployment and sickness.\textsuperscript{18}

Labour welfare has two sides, negative and positive. On the one side it is associated with the counteracting of the harmful effects of large-scale industrialization on the personal, family and social life of the worker while on the other positive side, it deals with the provision of opportunities for the worker and his family for a socially and personally good life.\textsuperscript{19}

A significant definition describes labour welfare work as, “the voluntary effort of the employer to improve the living and working conditions of his employees, “the underlying assumption of course, being that, the first essentials to the welfare of the employees are steady work a fair wage and reasonable hours of labour”. That the employer has a further obligation and should not attempt to substitute welfare for better wages and shorter hours is clear from its added pronouncement that the spirit of the age has thrown up the employer’s duties involving a proper regard for the comfort health, safety and well-being of the employees.\textsuperscript{20}
From all these definitions it is apparent that none is complete or comprehensive. There is no precise definite outline or demarcation in this subject. More often than not, they give rise to ambiguity and overlap in certain areas of action. However, what is definite is that ‘labour welfare’ promotes the well being of workers in a variety of ways. Any kind of voluntary service will come under the purview of labour welfare if it aims at helping the worker to work better in a more meaningful manner, physically, socially, morally, economically and intellectually. In fact welfare work is fundamentally distinct from social work. The latter, “implies no relation between employer and employee but rather suggests the activities of a state department or a volunteer organization.”

AIMS AND OBJECTS OF LABOUR WELFARE

The aim or object of welfare activities is partly humanitarian – to enable workers to enjoy a fuller and richer life – and partly economic – to improve the efficiency of the workers – and also partly civic – to develop among them a sense of responsibility and dignity and thus make them worthy citizens of the nation. Another object of labour welfare is to fulfill the future needs and aspirations of labour.

The following motives and considerations have prompted employers to provide welfare measures:

(1) Some of the early philanthropic and paternalistic employers tried to ameliorate the working and living conditions of their workers by providing various welfare measures.
(2) Some of them took recourse to welfare work to win over their employee's loyalty to combat trade unionism and socialist ideas. The devotion to welfare work by many American employers during the twenties could be attributed to their anti-unionism. However, such a motive did not succeed in checking the spread of trade unionism.

(3) Many employers have sought to use welfare work as a weapon against strike. "Somewhat earlier, there was a naive faith that welfare equipment was strike insurance."22 It is said that welfare activities improve the sentiments atmosphere in the factory and the morale of industry. The Rege Committee held: there is no doubt as regards the beneficial effects of welfare measures, such as educational facilities, sports, entertainments, etc on the sentimental atmosphere in the factory and their contribution to the maintenance of industrial peace. When the state is interested in his day-to-day life and would like to make his lot happier in every possible way, his tendency to grouse and grumble will steadily disappear."23

(4) Some employers provided labour welfare services to build up a stable labour force, to reduce labour turnover and absenteeism and to promote better relations with their employees. The labour investigation committee has also emphasized this aspect of welfare work. It has said, better housing co-operative societies, canteens and maternity benefits, provident funds, gratuities and pensions and such other thing are bound to creat feeling among the workers that they have a stake in the industry as much as any one else, and the present situation under which labour turnover and absenteeism prevail and the workers are constantly trekking to their village houses in search of social security and recreation will yield place to a new situation in
which the working class becomes more satisfied and economically efficient."\textsuperscript{24}

(5) At present, labour welfare has been conceived by some employers as an incentive and good investment to secure, preserve and develop greater efficiency and output from workers. Anyhow, it is very difficult to quantify the additional contribution of welfare measures to the increased productivity. However, some studies have shown a positive link between labour welfare and productivity.

(6) One of the objects for provision of welfare activities in recent times by certain employers is to save themselves from heavy taxes on surplus.

(7) The purpose behind provision of welfare amenities by some companies is to enhance their image and to create an atmosphere of good-will between labour and management and also between management and the public.

The aims and objectives of labour welfare have progressively changed during the last few decades. From the primitive policing and placating philosophy of labour welfare, it gradually moved to the era of paternalism with philanthropic objectives. The recent thinking in labour welfare, however, is more oriented towards increasing productivity and efficiency of the work people. An outstanding trend today is that it has become a comprehensive concept concerned with the development of the total human personality embracing physical, mental, social psychological and spiritual aspects of the employees well-being. In future it will assume new dimensions in our country as
a result of added emphasis on the basic responsibilities of a welfare state.

**SOCIAL SECURITY VIS-A-VIS LABOUR WELFARE**

The concept of labour welfare is a dynamic one and it is subject to changes owing to the changing behaviour of the socio-polico environment. It is because of this reason that many of the topics which were regarded at one time as welfare practices or are being presently regarded as welfare steps may drop out because of the new labour laws, compulsory adjudication and collective bargaining practices as at present. Many of the items such as crèches, provision of sanitary facilities, canteens, recreation room, holiday with pay, social insurance, provision for urinals bathing and washing facilities; etc. are covered today in many industries by labour laws, adjudication awards, and collective bargaining.

Labour welfare includes social services provided by an employer to his employees over and above what is required to be done legally or in the necessity of industry. Labour welfare services should include all extra and intra mural welfare work, statutory and non statutory welfare activities undertaken by the employer, government, trade unions and other voluntary organizations, and also social security measures which contribute to workers welfare such as industrial safety, health insurance, provident fund, gratuity, maternity benefits, workmen's compensation, retirement benefits, etc. Any welfare
programme, taken, in its more comprehensive sense, also be divided into three types:

(I) Statutory;

(II) Non-statutory and

(III) Mutual statutory welfare.

The first type constitute those provision of welfare work which depend for their observance on coercive power of the government. Non statutory welfare measures include all those activities which are undertaken by the employers for their workers. On the face of it, it is apparently philanthropic, but it also increases efficiency of labour and reduces the area of conflict. Some trade unions also undertake voluntary welfare work for the benefit of their members. Mutual statutory welfare infact refers to social security measures.

Social security is intimately related to 'labour welfare' whereas labour welfare secures the workers and his family the fullest life. In the comprehensive sense of the term social security covers the various socio-economic risks and contingencies in the life of individuals in the society through appropriate organization and methods.

In modern times social security is influencing both social and economic policy. Social security is the security that the state furnishes against the risks which an individual of small means can not, today, stand up to by himself even in private combination with his fellows.25
The quest for social security and freedom from want and distress has been the consistent urge of man through the ages. This urge has assumed several forms according to the needs of the people and their level of social consciousness, the advancement of technology and the pace of economic development. Social security envisages that the members of a community shall be protected by collective action against social risks causing undue hardship and privation to individuals whose private resources can seldom be adequate to meet them. It covers through an appropriate organization, certain risks to which a person is exposed.

The concept of social security is based on ideals of human dignity and social justice. The underlying idea behind social security measures is that a citizen who has contributed or is likely to contribute to his country's welfare should be given protection against certain hazards.

With reference to labour, social security is a scientific form of labour welfare, while labour welfare is wider than social security. But they are necessarily inter-related in policies, plans and administration. Labour welfare and social security for labour have the same objective, they differ only in their respective approaches and emphasis, social security and labour welfare measures are significant from two viewpoints. First, they constitute an important step towards the goal of a welfare state. Secondly, they enable workers to become
more efficient and then reduce wastage arising from industrial disputes. Labour welfare without social security or vice-versa are inconceivable. Thus labour welfare is a total concept and social security for labour is an integral part of it.

Labour welfare work is associated, on negative side, with the counteracting of the baneful effects of the large-scale industrial system of production specially capitalistic, so far as India is concerned on the personal family and social life of the workers. On the positive side, it deals with the providing of opportunities for the workers and his family for a good life as understood in its most comprehensive sense. The personal objective alone is not adequate. Labour welfare is also fundamentally in the interest of the larger society as the health, happiness and efficiency of each individual connote the general well-being of all. Taken thus, labour welfare is an essential part of social welfare. It means the adjustments of labour's work life around. Labour welfare is a cumulative and total concept that could be realized in the three dimensional and related spheres of the individual, the family and the community. The said items among other things, also included the heads like workmen's safety measures, health and medical services, workmen's compensation for injury, unemployment insurance, provident fund and gratuity, etc. Naturally within the framework of the concept of labour welfare, the social security for labour is inevitably covered and included in the concept of Labour Welfare.
Social security, which is intricately connected with the concept of labour welfare, has its relevance in the backdrop of political philosophy adopted by countries guaranteeing socio-economic justice. A well built social security system not only guarantees socio-economic justice to the toiling masses, but it also helps in building up an efficient and healthy work force. The amenities to guard against various risks consequent to work association has a direct bearing upon choice of employment. A sound system of social security backed by adequate statutory provisions, nevertheless, stops inter-industry and inter-sectoral migration of working population. As a related concept of labour welfare, social security serves dual purposes. On the one hand, it strives to maximize productivity by keeping the workers physically and morally well off. On the other hand, it reduces the burden of employers against uncertain risks.

Social security measures have a two-fold significance for every developing countries. They constitute a goal for welfare state, by improving living and working conditions and affording the people, protection against the uncertainties of the future. These measures are important for every industrialization plan, for not only do they to become more efficient, but they also reduce wastage arising from industrial disputes. Lack of social security impedes production and prevents the formation of a stable and efficient labour force.
EVOLUTION OF LABOUR WELFARE IN INDIA

Welfare work in India as in the United States and the United Kingdom, was mainly a product of the stresses and strains during the first world war. Before this period, there were only isolated instances of welfare work, mostly by outside agencies on humanitarian ground. Before the introduction of welfare and other legislation in India, the conditions of labour were miserable. Exploitation of child labour, long hours of work, bad sanitation, absence of safety measures, etc. were the regular features of factory life.

The earliest legislative approach could be traced back to the passing of the Apprentices Act of 1850. This Act was enacted with the objective of helping poor and orphaned children to learn various trades and crafts. The next Act was the Fatal Accidents Act of 1853, which aimed at providing compensation to the families of workmen who lost their life as a result of "actionable wrong". Then came the Merchants Shipping Act of 1859, which regulated the employment of seaman and provided for their health accommodation, etc. Earliest attempts at legislation in this country were mainly aimed at regulation of employment.31

The labour legislation in the real sense had its origin in India in the last quarter of the 19th century and the beginning of the 20th century when the first the second and the third Factories Acts were enacted in 1881, 1891, and 1911 respectively and the first Mines Act
was passed in 1901. But these laws provided for only some very nominal restriction on the unlimited working hours, unsafe working conditions and unrestricted employment of women and children in factories and mines only.\(^{36}\)

However before the first world war (1914-1918) there was no legislation for the general class of industrial workers or for their welfare, social security, service conditions, wages, trade unions and trade disputes.\(^{33}\)

The outbreak of the First World War in 1914 led to a number of new developments. The Russian Revolution in 1917 had a tremendous impact on the attitudes of government and society towards labour. The working class became more conscious as a result of the general unrest following the war. The establishment of the International labour organization (I.L.O.) in 1919 was another important landmark in the history of labour welfare movement in our country.

The establishment of the I.L.O. in 1919, of which India was member since its inception, also gave a great fillip to labour legislation in India as many of its conventions and recommendations for laying down international standards for improvement of labour conditions were adopted by India. As a result of these after 1920 labour welfare legislations took great strides in India. The new Factories Act and Mines Act were passed in 1922 & 1923 respectively to improve the working conditions of workers working in Factories and mines. Many
new and important laws were enacted namely, the workmen's compensation Act, 1923, the Indian Trade Unions Act, 1926 and the Trade Disputes Act, 1929.

The Royal Commission on labour under the Chairmanship of J.H. Whitley was appointed in 1929 and in 1931, the report was published in contained a series of valuable recommendations for the enactment and administration of labour welfare laws. As a result, many existing labour laws were thoroughly amended and new Acts were also enacted, namely, workmen's compensation (Amendment) Act, 1933; Indian Dock Labourers Act, 1934; Factories Act 1934; Trade disputes Act (Amendment) Act, 1934 & 1938 and the Payment of Wages Act, 1936.

LABOUR WELFARE AND ROLE OF Dr. B.R. AMBEDKAR

In our country industrialization has adversely affected the working class people due to long working hours, industrial fatigue, bad environmental conditions at the place of work, industrial hazards, concentration of population in dirty slums, insanitation and industrial diseases etc. But, in our country, Dr. B.R. Ambedkar, the most outstanding son of India who has left an indelible mark on the history of mankind, felt as his duty to do as much as possible, to improve the conditions of the industrial labour who were hit hard as a result of industrialisation.
Born in a socially backward community, but exposed to a highly forward system of education, rational in outlook and rebellious in temperament, Dr. Ambedkar appeared on the scene at the appropriate moment to assume the national leadership and participate in the labour struggles and constitutional matters in a strategic way. He was the unrivalled champion of the depressed classes, dedicating his life to the cause of their amelioration. As a militant messiah, he tried to install in the masses of India’s labour class a sense of confidence, defiance, dignity, freedom and hope.

Keeping the welfare of poor, depressed especially workers, in August 1936, Dr. Ambedkar founded a new political party called, “The Independent labour Party” and drew up comprehensive programme which answered all the immediate needs and grievances of the landless, poor tenants, agriculturists and industrial workers.

The party believed that the fragmentation of holdings and the pressure of population over them were the causes of the poverty of the agriculturists and the way out was rehabilitation of old industries and starting new ones. In order to raise the efficiency and productive capacity of the workers, the party declared itself in favour of an extensive programme of technical education and the principle of state management and state ownership of industries where necessary. The manifest promised to undertake legislation to protect agricultural tenants from the exactions and evictions by landlords and to extend
the same benefits to them as would be provided for industrial workers, with suitable changes. For the benefit of industrial workers the party would endeavour to introduce legislation to control the employment, dismissal and promotion of employees in factories, to fix maximum hours of work, to make provision for adequate wages and for leave with pay and to provide cheap and sanitary dwellings for workers. Unemployment, it observed, would be relieved by starting public works.\textsuperscript{34}

On different occasions he dealt with the problems of landless labourers, collective forming, land revenue, currency system and abolition of land-lordism. He discussed taxation problems. He advocated the nationalization of industries and agriculture as the way to social equality.

Dr. Ambedkar felt that a land should be let out to villagers without distinction of caste or creed and in such a manner that there would be no landlord, no tenant and no landless labourers. It should be the obligation of the state to finance the cultivation of collective forms by the supply of water, draught animals, implements manure, seeds etc. The state should also be entitled to leave reasonable charge. The basic and key industries should be owned and run by the state.

Dr. Ambedkar's justification for rapid industrialization was the promotion of intellectual and cultural life. For it is only when there is leisure that a person is free to devote himself to a life of culture.
According to Dr. Ambedkar, "The problem of problems, which human society has to face, is how to provide leisure to every individual, leisure is quite impossible unless some means are found whereby the toil required for producing goods necessary to satisfy human needs is lessened. What can lessen such toil? Only when machine takes the place of man. There is no other means of providing leisure. Machinery and modern civilization are then indispensable for emancipating man from leading the life of a brute, and providing him with leisure."^35

The depressed classes, particularly in India, they have no land, no social status, no participation in trade and commerce and in government jobs as well. So Dr. Ambedkar advocated "State Socialism" in the field of industry and also state ownership in agriculture with a collective method of cultivation. He was one of the few, who demanded nationalization of insurance. He was of the firm opinion that the problem of landless labourers could not be ameliorated through consolidation of land or by tenancy legislation. Only collective farms could solve the problems.^36

Dr. B.R. Ambedkar joined as a member in "Viceroy labour executive council" on July 20th, 1942 and played a vital role in amending the industrial Acts and achieved benefits like reduction of working hours, leave with pay, maternity leave, social security, welfare outside of the work, stopping retrenchment etc. He argued that labour legislation was essentially a socio-economic legislation pertaining to various human problems in relation to industry.
In the past, there were no harmonious relations between labour and management due to lack of understanding. Ambedkar tried to remove this contradiction and advised:

(1) The industries which are key industries or which may be declared to be key industries shall be owned and run by the state; and

(2) The industries which are not key industries but which are basic industries shall be owned by the state and shall be run by the state or corporations established by the state.

Dr. Ambedkar introduced a tripartite committee to improve the labour conditions like wages, bonus, leave with wages and other matters to prevent and settlement of disputes between employees and employers. The committee consists of three members which represents government, employees and employers to solve their problems through discussions. The aim of the tripartite committee was to bring the parties to industrial disputes “together for mutual settlement of differences in a spirit of cooperation and good will.”

Under the chairmanship of Dr. Ambedkar, the first labour conference was held on 7.8.1942, when representatives of employers and workers were also invited to take part in that conference. In his address Dr. Ambedkar said, “It is for the first time in the history of these labour conferences that the representatives of the employers and employees have been brought face to face within the ambit of a joint conference."
Dr. Ambedkar discussed in labour conferences and covered several aspects like wage differences, labour welfare funds, industrial dispute etc. He conducted the labour conference four times and suggested several measures for the labour welfare to the government and also made the government to implement those suggestions.

Being a member of Viceroy committee he took several steps to amend the Mica Mines Act by two times. Due to amendments, several amenities were extended to the women labour of Mica mines like arrangement of cradles for infants and appointment of maids for nursing their children etc.

Dr. Ambedkar tried to help not only the industrial labour women, but also the other women. He said that, it should be the foremost duty of Indian women to integrate themselves to help their fellow-sisters who are under the despised and degraded profession like the flesh-trade, beggary etc. So educated women should join social work to educate, organize, and unite all depressed women.\footnote{40}

Whenever there was dispute between workers and employers due to misunderstanding, it lead to mental agony also. In this connection to avoid the problem, Dr. Ambedkar introduced, industrial workers act which does not bring any pressure in working hours and productive efficiency.
Dr. Ambedkar noted that capitalistic economy debases noble feelings of workers. Therefore, Ambedkar pleaded for its early destruction from the world. Capitalism breeds exploitive values and therefore it must be abolished and be replaced by the establishment of genuine socialism. Dr. Ambedkar’s concept of constitutional state socialism is unique and more humanistic, because he believed that democratic organization must remain its concomitant part for otherwise the abolition of capitalism would necessarily lead to dictatorship wherein democracy might not be possible and dignity of labour be underrated.

Dr. Ambedkar’s views on economic concepts were clear-cut. While he was definitely opposed to Capitalism, he was opposed to communism also, on different grounds. He was definitely for limited state control in matters, economic and social to avoid any kind of dictatorship. To him, labour loses its liberty under capitalism, and under communism. Infact labour must have both equality and liberty.

Dr. Ambedkar advocated state socialism, but his concept on socialism was very much practical. His sole aim was to upgraded the labour class and he had tried his best in this respect.

Dr. B.R. Ambedkar, who became the labour member of the viceroy executive council on July 20, 1942, but resigned in the third week of June, 1949. He was thus in office only for about four years.
The period, though short, is landmark in the history of labour legislation and labour welfare in this country.

**INFLUENCE OF TRIPARTITE LABOUR MACHINERY**

In pursuance of the recommendations of the Royal commission on labour the government of India constituted in 1942 a tripartite consultative machinery consisting of Indian labour conference and standing labour committee for regular and periodic discussion between the central and provincial governments and also representatives of employers and workers for co-ordinating the labour policy, considering proposals for labour legislation, advising central and provincial governments in framing of rules and regulations, labour research, etc. This tripartite labour machinery also made a significant impact on the growth and direction of labour legislation in India. All major legislative and administrative proposals regarding labour and industry were first processed through this form the years between 1942 and 1947 witnessed a remarkable extension in the scope and content of protective labour legislation. Notable among those are, the Industrial Employment (Standing orders) Act, 1946; Mines Amendment Act, 1945 and 1947; Factories (Amendment) Act, 1946 and the Industrial Disputes Act, 1947, etc.
LABOUR WELFARE – AFTER INDEPENDENCE AND INFLUENCE OF PART IV OF THE CONSTITUTION OF INDIA

After getting independence in the year of 1947, the labour welfare movement acquired new dimensions. It was realized that labour welfare had a positive role to play in increasing productivity and reducing industrial tensions. The state began to realize its social responsibilities towards weaker sections of the society. The emergence of different central trade union organizations – INTUC (1947), HMS (1948), UTUC (1949), BMS (1955), CITU (1970), etc. – gave a further fillip to the growth of labour welfare movement.

Mainly on the basis of the recommendations of the Rege Committee, the Government of India enacted the Factories Act, 1948. Such Act came into effect from 1st April, 1949. It is a comprehensive piece of legislation. It contains many important provisions regarding health, safety, welfare, employment of young persons and children, hours of work for adults and children, holidays, leave with wages etc.

On the attainment of independence and particularly after the constitution of India came into effect from January 26, 1950, there has been a great spate of new labour laws and amendment of the existing laws, both in central and state spheres, which reflects the effort to realize the concept of a welfare state and socialist democracy on the one hand and to accelerate the pace of massive industrial development and the growth of a planned self-reliant national
economy on the other. In the post-independence era, the state also introduced a number of pieces of legislation, some relating to employment and its regulation as well as terms and conditions apparent thereto, while some others are in respect of social security and allied subjects. Infact, labour legislation has since then become a very important part of social legislation which has been inspired by a sense of social justice based on fairness, social equity and natural justice with a view to protecting the weak and the under-privileged against the strong and the privileged and in pursuance of the Directive principles of state policy as enshrined in the constitution of India.

The Directive Principles of states policy set out in part IV of the constitution of India are unique in their importance. Taken together, they set forth certain socio-economic cultural and educational objectives for the state. While laying down these directives, the framers intended to set out the aims and objectives for which the people had longed for following the great renaissance witnessed in the second half of the nineteenth century and which provided the motivation for the peaceful political revolution and the programme of social reconstruction and economic upliftment inaugurated by Dr. B.R. Ambedkar and many other leaders in the first half of this century.

At one time it was thought that the state was mainly concerned with the maintenance of law and order and the protection of life liberty
and property of the subject. Such a restrictive role of the state is no longer a valid concept. Today we are living in an era of welfare state which has to promote the prosperity and well-being of the people.

The objectives of the Directive Principles of state policy can better be understood from the speech of Dr. B.R. Ambedkar in the constituent Assembly. He said, "While we have established political democracy, it is also the desire that we should lay down as our ideal economic democracy. ....... It is no use giving a fixed rigid form to something which is not rigid, which is fundamentally changing and must, and having regard to the circumstances and at times keep on changing. It is, therefore, no use saying that the directive principles have no value. In any judgement, the directive principles have a great value, because our ideal is economic democracy. Our object in framing the constitution is really two fold (1) to lay down the form of political democracy and (2) to lay down that our ideal is economic democracy and also to prescribe that every government whatsoever is in power, shall strive to bring about economic democracy."  

The Directive Principles, the novel feature of our constitution and borrowed from the constitution of Ireland lay down certain economic and social policies to be pursued by the various government in India, they impose certain obligation on the state to take positive action in certain directions in order to promote the welfare of the workers and achieve economic democracy.
The necessity for labour welfare is felt all the more in our country because of its developing economy aimed at rapid economic and social development. This need for labour welfare was emphasized by the constitution of India in the chapter-IV under the title of the Directive Principles of States Policy, particularly in the following Articles:

**ARTICLE 38 OF THE CONSTITUTION OF INDIA**

(1) The state shall strive to promote the welfare of the people by 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.

(2) The state shall in particular, strive to minimize the inequalities in income, and endeavour to eliminate inequalities in status, facilities and opportunities not only amongst individual but also amongst group of people residing in different areas or engaged on different vocations.\(^{45}\)

Article 38 is supplemented by Article 39 which lays stress upon certain aspects of economic justice.

**ARTICLE 39 OF THE INDIAN CONSTITUTION**

Article 39 of the constitution required the state, in particular, to direct its policy towards securing:

(a) that all citizens, irrespective of sex, 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;

(c) That the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;

(d) That there is equal pay for equal work for both men and women;

(e) That the health and strength of workers, men and women, and the tender age of children are not abused and that citizen are not forced by economic necessity to enter avocations unsuited to their age or strength;

(f) That children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that youth are protected against exploitation and against moral and material abandonment.

This Article specifically requires to state to ensure for its people adequate means of livelihood, fair distribution of wealth, equal pay for equal work, and protection of children and labour. Articles 39(b) and (c) together with other provisions of the constitution contain the main objectives, namely, the building of a welfare society and an equalitarian social order in the Indian Union.46

It has been held that a law aimed at doing away with the concentration of big blocks of lands in the hands of few individuals would subserve the directives contained in sub clauses(b) and (c) of Article 39.47 The term “material resources of the community” in caluse
(b) has been held to include such resources in the hands of the private persons and not only those which have already vested in the state. Material resources include not only natural or physical but also moveable or immovable property such as land, buildings, workshops, vehicles etc.

Pursuant to Article 39(d), Parliament has enacted the Equal Remuneration Act, 1976. The directive contained in Article 39(d) and the Act passed thereto can be judicially enforceable by the court. In Randhir Singh Vs Union of India, the Supreme court has held that the principle of “Equal pay for equal work” though not a fundamental right is certainly a constitutional goal and, therefore, capable of enforcement through constitutional remedies under Article 32 of the constitution. The doctrine of equal pay for equal work is equally applicable to persons employed on a daily wages. They are also entitled to the same wages as other permanent employees in the department employed to do the identical work.

ARTICLE 41 OF THE CONSTITUTION OF INDIA (RIGHT TO WORK, TO EDUCATION AND TO PUBLIC ASSISTANCE IN CERTAIN CASES)

The state shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in case of unemployment, old age, sickness and disablement and in other cases of undeserved want.
The state is directed by this article to ensure to the people within the limits of its economic capacity and development: (i) employment, (ii) education and (iii) public assistance in cases of unemployment, old age, sickness and disablement and in other cases of undeserved want. It is usual to refer to matters specified in this directive as measures of labour welfare and social security.

ARTICLE 42 OF THE CONSTITUTION OF INDIA (PROVISION FOR JUST AND HUMANE CONDITIONS OF WORK AND MATERNITY RELIEF)

The state shall make provision for securing just and humane conditions of work and for maternity relief.

These directives, like those contained in Article 38, relate to labour welfare. The state is required to make provision for just and humane conditions of work and for maternity relief. Referring to Articles 42 and 43, the Supreme Court has emphasized that the constitution expresses a deep concern for the welfare of the workers. The court may not enforce directive principles as such but they must interpret laws as to further and not hinder the goals set out in the directive principles.52

ARTICLE 43 OF THE CONSTITUTION OF INDIA: LIVING WAGE ETC., FOR WORKERS

The state shall endeavor to secure by suitable legislation or economic organization or in any other way, to all workers, agricultural, industrial or otherwise, work, a living wage, conditions of
work ensuring a decent standard of life and full enjoyment of leisure
and social and cultural opportunities and in particular, the state shall
endeavor to promote cottage industries on an individual or co-
operative basis in rural areas.

In respect of the minimum wage, the Supreme Court of the
India, pronounced a land mark judgement in Bijoy Cotton Mills Ltd Vs
State of Ajmer\textsuperscript{53}, the court held that the fixation of minimum wages of
labourers by the legislature is in the interest of the general public and,
therefore, is not violative of the freedom of trade secured to the citizen
under Article 19(1)(g). It was further emphasized that if labourers are
to be secured in the employment of minimum wages and they are to
be protected against exploitation by their employers, it is absolutely
necessary that restraints should be imposed upon their freedom of
contract, and such restrictions can not in any sense be said to be
unreasonable.

The concept of living wage has been discussed by the Supreme
Court in Standard Vacuum Refining Co of India Vs Workmen\textsuperscript{54} and
Express News Papers (Pvt.) Ltd Vs Union of India\textsuperscript{55}. The idea is that
every workman shall have a wage which will maintain him in the
highest state of industrial efficiency, which will enable him to provide
his family with all the material things which are needed for their
health and physical well-being, enough to enable him to qualify to
discharge his duties as a citizen. The amount of living wage in money
terms will vary as between trade and trade.
Gajendragadkar, J. has said, "The concept of living wage is not a static concept. It is expanding and the number of its constituents and their respective contents are bound to expand and widen with development and growth of the national economy. Indeed, it may be true to say that in an underdeveloped country, it would be idle to describe any wage structure as containing the ideal of living wage, though in some cases, wages paid by certain employers may appear to be higher than those paid by others.\textsuperscript{56}

Commenting on Article 43 of the Constitution of India, the Supreme Court has observed that while our political aim is 'living wage' for workers, in actual practice, this ideal has eluded our efforts so far and that our general wage structure has at best reached the lower level of 'fair wage'.\textsuperscript{57}

The Supreme Court has rejected the argument that the pattern of wage fixation in case of government companies in public sector should necessarily be different from companies in private sector, arguing that Articles 39 and 43 would be disobeyed if distinction is made between the same class of labourers on the ground that some of them are employed in state enterprises and others in private enterprises.\textsuperscript{58} The living wage under Article 43 of the constitution is a very important directive in respect of labour welfare. The Court held that the living wage should enable the male earner to provide for himself and his family not merely the bare essentials of food, clothing
and shelter but a measure of frugal comfort including education for the children, protection against ill-health, requirements of essential social needs and measure of insurance against the most important misfortunes including old age.\textsuperscript{59}

It has been again remarked by the Supreme Court in workmen Vs Reptakos Brett and Co. Ltd.\textsuperscript{60} that a living wage has been promised to the workers under the constitution. A "Socialists" framework to enable working people a decent standard of life has further been promised by the 42\textsuperscript{nd} amendment. The workers are hopefully looking forward to achieve the said goal. The promises are pilling up but the day of fulfillment is nowhere in sight. Industrial wage-looked as a whole-has not yet risen higher than the level of minimum wage.

Therefore, the living wage is not only a political ideal but an essential element of labour welfare to be achieved and it means and includes salary, pay or remuneration for the work done, which is quit essential for providing necessaries of life, such as food, cloth and shelter including maintenance of health, education frugal comforts and certain means of recreation which are quite essential for the person to lead his life in society as human being. Living wages are wages without which working people can not live and perform their duties as a citizen and this concept has influenced the fixation of wages in all economically advanced countries and was a very old and well-established one.
ARTICLE 43-A: PARTICIPATION OF WORKERS IN MANAGEMENT OF INDUSTRIES

The state shall take steps, by suitable legislation or in any other way, to secure the participation of workers in the management of undertakings, establishments or other organizations engaged in any industry.

Article 43 A was the first active step towards socialism in India, after having inserted the word Socialist’ in the preamble, by 42nd Amendment.

The scheme of Article 43A is that though the ownership might belong either to a private individual or to the state, the workers engaged in a particular industry or enterprise shall, by legislation, be given a share in the management thereof. The concrete economic result of this provision would be that the workers would no longer be hired labourers, but shall have an interest in the success of the enterprise and would have a share in its profits. The right to participation in the management of an industry or undertaking, besides the right to work, offered under Article 41, it is hoped, will ensure better and more production without which national development would be an impossibility, under modern conditions. In upholding the right of workers to be heard in the winding up proceedings of a company, the court drew support from this Article.62

Thus the need for social and industrial welfare in India in all sectors is clearly enunciated in our constitution. It is clear that Dr.
Ambedkar's untired efforts to labour welfare inspired our constitution markers to include such provisions which facilitate workers to work and live in a healthier condition.

The Planning Commission also realized the necessity of labour welfare, when it observed that, “In order to get the best out of a worker in the matter of production, working conditions require to be improved to a large extent.”

The working conditions should be such as what Dr. Ambedkar has prescribed to the working class regarding their health and protecting them against occupational hazards. The work place should provide reasonable amenities for their essential needs. The worker should also be equipped with necessary technical training and a certain level of general education.
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22. Supra Note 9, p. 537.


27. Ibid.

29. Supra Note 19.

30. V.V. Giri, Labour Problems in India, p. 249.


36. Supra Note 34, p. 375.


42. Supra Note 32 p. 15.
43. Ibid, p. 16.


45. The article has been renumbered as clause (1) and clause (2) has been inserted, by the constitution (44th amendment) Act, 1978.


52. U.P.S.E. Board Vs Hari Shanker, AIR, 1979, SC 65.

53. AIR, 1955, SC 33.

54. AIR, 1961, SC 895, 901.

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57. All India Reserve Bank Employees Vs Reserve Bank, AIR 1966, SC 305, 317.

59. Express Newspapers Ltd. Vs Union of India, AIR 1958, SC 578.

60. AIR 1992, SC 504.

61. Inserted by the Constitution (42\textsuperscript{nd} Amendment) Act, 1976.


63. First Five Year Plan, 1951, p. 586.