Introduction
CHAPTER -I
INTRODUCTION

Justice is the complete expression of the soul’s excellence\(^1\). It is the very epitome, the totality of virtue\(^2\). Justice as righteousness operates at individual level as virtue and is conceived as a concept that applies to man in his social relations. Therefore, it can be described as a quality relating to men in society, not in solitude\(^3\). It is primarily a quality of the social order\(^4\). Justice being essentially a quality of the behaviour of one man to another i.e. of men in the society, all justice can be said to be ‘social justice’\(^5\).

Social justice is considered as the primary goal of modern welfare state. Removal of socio-economic differences and disparities in the society is considered as the most important task of the socialist welfare state, which is achieved through the proper regulation of property, elimination of unemployment and poverty, better and humane working conditions, mitigation of gross inequalities of income etc. The total emancipation of individual

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and multi-dimensional development of society is therefore, the aim of the modern socialist welfare state.

Seeds of social justice can be found world-wide. Ancient history of Greece reveals the progressive establishment of institution of social and political welfare. Socrates of Greece lived an exemplary life of pity and piety and preached ethics and high qualities in the people. For him, life was meant for acquisition of virtues and subduing of vicious impulses. Plato attempted to reduce the feeling of mine and thine. He was the first man in Europe to suggest that the joys and sorrows of one are the joys and sorrows of all. Aristotle, the great philosopher advocated that money is barren by nature and increase of money through usury was an unnatural way of increasing one's riches. Cicero of Rome preached simplicity in life and goodwill for all. Christ came as a great cheer to the poor and downtrodden and revolutionised the entire outlook towards life. He emphatically declared that Heaven belongs to the poor. 

7. Ibid.
9. For details see, supra note 6 at 200-203.
10. Ibid. Also see, Raymond G. Gettell, *History of Political Thought* 87 (1929).
people the spirit of mutual understanding and general goodwill at the time, when there was a chaos all around due to Industrial Revolution. Manual power was being exploited and poverty due to unemployment and under payment was taken new dimensions. He gave the new theory of the ‘social contract’ which was based on the general will of common man.\textsuperscript{11} Jeremy Bentham laid down theory of ‘\textit{felicific calculus}’ i.e. greatest good of the greatest number.\textsuperscript{12} Marx came with communism as the ideal for the depressed people of the world.\textsuperscript{13}

Democratic socialism of twentieth century occupied a middle position between capitalist and communist economies. It is a mixed type of economy, being a combination of free enterprise and planning, the goals of which are economic development, self-sufficiency and social justice. Within the broad framework of state control, there is freedom of consumption and occupation, and production also largely follows the wishes of

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  \item \textsuperscript{12} For details see, Jeremy Bentham, \textit{An Introduction to the Principles of Moral and Legislation} (1789 Rev. ed. 1823); William Ebenstein, \textit{Great Political Thinkers} 506-521 (1960).
  \item \textsuperscript{13} For details see, Eddy Asirvatham, \textit{Political Theory} 512-517 (1974).
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Democratic society combines the advantages of a regulated economy and freedom of choice for individual which gives scope for the satisfaction of one's tastes, desires and aspirations. It fosters expansion and diversification of want. There is ample scope for the development of faculties of any individual due to liberties and privileges conferred by the socialist state. He is provided with essential services, like education, medical care, old age pension, unemployment relief etc. Therefore, it is well established that socialism implies bold policies pursued with vigour, proceeding towards the ultimate goal of social justice.

Concept of social justice is to be worked out which is undisputedly an end or the main objective of all ‘isms’—they are just the means to achieve this end i.e. social justice or social order. Social justice is not the monopoly of any form of government. It is the common, basic, fundamental and essential ideal of all forms of governments, the difference lies more in implementation strategies and schemes than in affirmation.

In India, the glorious and prosperous vedic and post-vedic periods were based upon dharma, equality and justice. Due to Muslim and British occupations, social ideals, norms and social

cohesion of Indian society were shattered and casteism, exploitation and poverty were all prevalent in medieval India.

The pre-independent Indian polity was governed by feudal kings under the suzerainty of British crown which also lacked any unified legal system. Besides the defects of legal and administrative machinery, the social evils like casteism and untouchability, and economic drain of the country's resources were the major causes of miserable poverty and inequalities prevalent in the Indian society.\(^\text{16}\)

The post-independence period however, began with a marked change in Indian system under the new Constitution, for it reflected people's aspirations and needs for a dynamic social order based on justice and equality.\(^\text{17}\)

The Constitution of India is shaped on the values of justice, liberty, equality, fraternity and dignity of man. The Constitution has stressed the need for a complete social transformation. It is essentially the guardian of social justice and the enemy of the human bondage. It categorically rejects the social status and respect based on one's birth in a particular caste and creed. It does not give any particular preference to any particular


\(^{17}\) Ibid.
religion, and true to its secular nature, it regards all religions as equal. The Constitution uses explicit expressions of humanist, socialist, democratic and egalitarian meaning and people oriented justice in its solemn Preambular pledge which marks the watershed of radical jurisprudence anathematising colonial legalisms.

Part III and Part IV i.e. Fundamental Rights and Directive Principles of State Policy and the later portions of the Constitution amplify, not emasculate, the scope and purpose of social justice, although the social injustice syndrome in life and law shows no signs of abatement. Articles 14 to 16 are a package of equal protection by the law. Existing social inequalities need to be removed and equality in fact is accorded to all people irrespective of caste, creed, sex or religion subject to protective discrimination only through rule of law. The Constitution also opens a way of life which is devoted to all sorts of human development such as freedom of thought and expression, of belief and worship, of movement, of residence and settlement, of profession and of property etc. The two

21. See Articles 19-21.
ideals of liberty and equality are reconcilable, for both are means for realizing the potentialities of individual and the resources of society.\textsuperscript{22}

The socio-economic justice has been given a place of importance in the Constitution of India. The Directive Principles not envisaged banishment of poverty by the multiplication of the natural wealth and resources and an equitable distribution thereof amongst all who contribute towards its production. Under Article 38, the State is required to provide work for all improve the living conditions of the common man, provide sufficient food and clothing to all, provide relief for the ailing and pension for the old and infirm and educate all the children. The State shall strive to minimise the inequalities in income and endeavour to eliminate inequalities in status, facilities and opportunities not only amongst individuals but also amongst groups of people residing in different areas or in vocations.\textsuperscript{23}

Therefore, the Constitution does not accept the traditional concept of justice. It elucidates the idea of justice and measures it in relation to the vital needs of human

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\textsuperscript{22} Supra note 16 at 292.
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socio-economic and other factors which have frustrated our socio-legal welfare mechanism.

To analyse the scope of various administrative plans, programmes and measures for promoting the welfare of masses, for poverty-alleviation, education promotion and employment generation etc. To assess and evaluate the role of the administration in implementation of these plans, programmes and policies etc. regarding the promotion of equality and social justice in the society.

To assess and evaluate the judicial approach towards the implementation of socio-economic laws, plans and programmes and the role of judiciary in moulding the present legal system to suit the needs of the weaker sections of society.

To analyse the prevailing socio-legal flaws and to chalk out the requirements for moulding milieu based our justice, equality and freedom.

To analyse and understand the changes necessary to make Central and State mechanism more effective and flawless.

To assess and evaluate various formal, non-formal programmes, the role of social welfare or non-government organisations in the alleviation of the misery of the poor
increasing gap in income and wealth, tempted the researcher to study thoroughly the working of the socio-economic as well as legal policies of the government, both in theoretical and empirical framework. In view of the deficiencies - institutional, functional as well as administrative in the existing socio-legal system, the proposed study would focus attention specially on the following basic issues:

- Assessment of various inequalities and imbalances prevalent in the Indian society,

- Extent of contribution of legislative, executive, administrative, judicial and other variables of our system in implementing the goal of social justice,

- To study analytically the growth and development of socio-economic conditions of different sections of Indian society and to find out lacunae in our policies and programmes which have hampered the desired level of attainment of social justice in Indian society.

- To evaluate the legislative measures available for the achievement of goal of social justice and the institutional deficiencies in their framework and policies.

- To analyse the perceptible gap between the theoretical framework and its functioning and, to identify and gauge the
socio-economic and other factors which have frustrated our socio-legal welfare mechanism.

- To analyse the scope of various administrative plans, programmes and measures for promoting the welfare of masses for poverty-alleviation, education promotion and employment generation etc. To assess and evaluate the role of the administration in implementation of these plans, programmes and policies etc. regarding the promotion of equality and social justice in the society.

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- To analyse the prevailing socio-legal flaws and to chalk out the requirements for moulding milieu based our justice, equality and freedom.

- To analyse and understand the changes necessary to make Central and State mechanism more effective and flawless.

- To assess and evaluate various formal, non-formal programmes, the role of social welfare or non-government organisations in the alleviation of the misery of the poor
and in the elimination of social inequalities and injustices.

To analyse the co-ordination between government and non-government organisations for more effective, viable and result-oriented functioning.

- To study and analyse the impact of economic liberalisation introduced in the last decade in India. To calculate the extent of growth and development in infrastructural facilities, services, employment, agriculture and other sectors of Indian economy due to economic liberalisation and privatisation and the net effect of these policy changes on the overall human development in the Indian society.

- Last, but not the least is to suggest in the light of the findings of the study, ways and means of upgrading the policy postulates and legislative framework to remove institutional deficiencies, to strengthen and expand formal and informal welfare programmes, and to ensure better coordination among various government departments, institutions, agencies and other non-government and informal action groups active in the field of socio-economic upliftment of Indian masses.
Universe of the Study:

Due to limited resources, paucity of time and limiting family circumstances, the universe of the study area wise was limited to Chandigarh, adjoining areas and few districts of Punjab. Many industrial establishments of Ludhiana, Patiala, Rajpura and Industrial area of Chandigarh were visited to select worker-class respondents for the response to the first questionnaire, to analyse their working conditions, working hours, health and safety provisions available to them at the workplace and assess the extent to implementation of labour-welfare legislation. Many unorganised daily wage workers were also being questioned to study their lives and vows. Moreover, many slum areas and small colonies in and around Chandigarh and Ludhiana were also visited by the researcher to interview daily wages workers, household workers, rickshaw pullers, other petty workers and weaker sections of the society viz. Scheduled Castes, Scheduled Tribes and other backward classes, at their residential areas to analyse and empathise their problems. Women and children from different strata of society and of different age groups were also administered different questionnaires to assess the growth and development of social and legal norms with regard to their varied needs and priorities. Therefore, respondents were drawn
from the identified population by the random quota sampling techniques.

Data from all the respondents was collected through interview and observation techniques. The data so collected was codified, classified and presented in the text of the study, which has also been given diagrammatic representation.

Research Methodology:

The present study is primarily theoretical, with some degree of empiricism in order to evaluate the efficacy of social justice programmes in India. Keeping in view, the socio-economic nature of the hypothesis, the research methodology has been chosen in such a manner as to effectively co-ordinate the data derived from various sources and to establish a linkage between them in order to highlight the issues of academic and practical interest. The pure legal approach has been diluted to some extent by frequent references to socio-economic aspects. Accordingly, apart from the legal material from official reports, journals, books, commentaries, decided cases etc., the study has used the methodology of field data collection of social sciences. Thus, both legal material and field data have been used to analyse the phenomenon under study.
Greater emphasis, in this study, has been on the secondary data. The existing legal and extra-legal literature available in form of books, articles, monographs, research papers, decided cases etc. was collected, assembled and analysed to trace the development of the idea of social justice. The relevant policy postulates, legislative, administrative, judicial and informal measures were analysed. To cross-check the findings of this analysis, primary data has been used.

To assess the implementation of policies and programmes relating to social justice, it was realised that the best way would be to collect information from the persons directly or indirectly affected by these government or non-government strategies for the implementation of the goal of social justice, which included industrial, organised and unorganised workers and other vulnerable sections of the society viz. Scheduled Castes, Scheduled Tribes other backward classes, women and children. In order to measure the social perceptions quantitatively, four detailed questionnaires were administered to the selected sample with a view to elicit their response to the basic issues involved in the implementation of social justice such as impact of reservation policy, extent of unemployment and implementation of various
labour and social welfare legislations, poverty alleviation, literacy and health related issues etc.\textsuperscript{25}

The technique of purposive sampling has been adopted and data collected by way of questionnaires and personal interviews with the people from different sections of the society have been analysed and presented with the help of tables, graphs and other statistical tools, in order to assess the extent of achievement of goal related to social justice.

**Plan and Structure of the Study:**

The study has been conducted under the following rubrics:

Chapter-I on introduction viz. the present Chapter examines the importance and need for 'social justice' in any welfare state and especially in the 'socialist' state. Historical and evolutionary importance of the vital concepts of 'justice' and 'social justice' have been given briefly. It discusses the scope and concept of 'justice' and 'social justice' and their essential constituents mentioned in the Constitution of India and also the various progressive developments, Constitutional amendments and legislative changes made during all these years since independence. It also discusses the institutional or other

\textsuperscript{25} The Text of the questionnaires has been given in Appendices, A-I to A-IV.
functional factors relevant for proper growth of an equal social order based on justice and equality.

Part A of the study comprises two chapters i.e. Chapter II and III, which deals with evolutionary aspect of the concepts of justice and social justice.

Chapter-II on the evolution of state and the concept of justice traces down the growth and development of primitive man, his group formations in form of class and tribes, ultimately leading to the formation of civilised societies having full-fledged government and legal systems alongwith the evolution of the concept of 'justice'. It also focuses on the different form of governments and systems i.e. 'isms' prevalent in the world.

Chapter-III deals with the historical development of the concept of 'social justice'. Attempts have been made to study the changing patterns of the concept of social justice, its acknowledgement and implementation in different periods of Indian history viz. ancient, vedic, post-vedic, medieval and modern periods.

Part-B deals with Constitutional provisions relating to social justice in its Part III and Part IV i.e. in Fundamental Rights and Directive Principles of State Policy. This part consists of Chapters IV, V and VI.
Chapter-IV explains the importance and meaning of concept of equality as a cardinal aspect of social justice in various international and national legislations including the Constitution of India. It enumerates and discusses in detail the Constitutional provisions relating to equality promoting and protecting social justice from various angles and dimensions by describing and explaining each and every aspect of equality in detail including the doctrine of protective discrimination, non-arbitrariness etc.

In Chapter-V, an attempt has been made to discuss and analyse the concept of freedom and its various dimensions as an essential constituent of the concept of social justice. The concept of 'liberty' has been studied in detail with reference to international and national legislations including provisions relating to liberty mentioned in the Constitution of India. The importance of different kinds of freedoms have been highlighted as essential to lead a dignified human life, which in turn would create a social order based on justice and equality.

Chapter-VI enumerates the Constitutional provisions relating to social justice, other than the basic postulates of equality and liberty, such as the role of Panchayati Raj Institutions, legal-aid, public interest litigation, property, reservation policy
etc. These provisions are also part and parcel of the multi-dimensional concept of social justice, which have been studied in detail in this chapter.

Part C is composed of two chapters viz., Chapters VII and VIII, which deals with legislative provisions, governmental policies and plans relating to social justice and their impact on the overall development in the Indian society.

Chapter-VII focuses its attention on the various welfare legislations, whether Central or State protecting and safeguarding the interests of different sections of the society on different subject matters. Legislations have been divided into sub-categories depending on their subject matter viz. labour welfare laws, land-reform laws, consumer laws, environment laws and other social welfare laws enacted for providing complete justice in the society.

Chapter-VIII discusses in detail the economic policy of India since independence and the economic reforms introduced in the 1990s. The concepts of economic liberalisation, privatisation and globalisation have been studied and analysed. The growth and developmental pattern of India's socio-economic structure in different fields have been studied in detail with Five Year Plans and other welfare programmes, comparing them with
present change in economic policy of India. Positive and negative impact of these economic reforms have been analysed after studying the views of economists, both at national and at international levels by comparing the overall human development in India with other developed as well as developing countries.

Part D comprises of Chapters IX dealing with empirical survey and analysis indicating implementation of the concept of social justice and Chapter X assessing and suggesting various means and methods for achieving an equal and just social order.

To make the present study more meaningful a brief survey of few industrial establishments, households, slum and labour colonies has been undertaken. Thus, the scheme and purpose of Chapter-IX is to highlight the existing situations and conditions of different strata of society and to analyse the theoretical assumptions with practical problems of human life, so that more workable propositions could be evolved.

The concluding Chapter-X attempts to draw conclusion from the study of the concept of social justice in earlier chapters including empirical survey and suggestions for a viable framework for the achievement of a social order based on equality and justice devoid of any inequality, discrimination and injustice.