CHAPTER VII
PRINCIPLES OF SOCIAL RECONSTRUCTION

I have discussed in the preceding Chapters the evolution of the idea of social justice and the society or the state's resolve to do justice to the depressed classes. At the same time I have also noticed the pitfalls. How can we turn ideals of social justice into realities? How the process should be started, whether from the individual or from the group or community? What is the method — whether constitutionalism or revolution? These are the issues which are being discussed in this Chapter.

The conception of Social Justice is that it a system in which individuals conduct towards each other. "Social justice came to be regarded as an attribute which 'actions' and society, or the 'treatment' of individuals and groups by 'society, ought to possess". So, it is an attribute of society. How the actions of individuals bear the fragrance of justice? It cannot imposed on individuals as duty. At the same time it is meaningless to speak of a right to a condition which no body has the duty, or even power, to bring about it. It is meaningless to speak of right in the sense of a claim of a spontaneous order, such association, unless this is meant to imply that somebody has the duty of transforming that comes into an organization and thereby to assume the power of controlling its results". Thus, the problem is
complex both from the side of individuals as well as from the side of the community or State.

The cardinal principle of the moral theory of justice which is presupposed in the theories of social justice, is that man is morally free to act and to express opinion as he is a rational animal. Based on this principle The Universal Declaration of Human Rights was adopted by the United Nations Organisation in the year 1948. Among other things it provided Four Freedoms., They are:
1. Freedom from want
2. Freedom from fear
3. Freedom of speech and
4. Freedom of worship

Freedom from want:
This is an economic freedom. In Indian system of human values it is called 'artha' meaning wealth. Poverty is a living malady. Elimination of poverty is linked to the right to property. 'Man's greed to accumulate property disproportion to his need and disproportion to his deed made him immoral in terms of value. But the denial of right drives man to be destitute. It merely kills the man as he would be in perpetual poverty. Therefore, right to property morally elevates him to come up from the quagmire of poverty.

The deplorable aspect of right to property is that man in the industrialised world treated as a 'religion of material goods'. This has created a gap of rich and poor. Accumulation of wealth in a few hands deprived basic
amenities like health, education, housing. Increased use of advanced technology in the industry driving every individual to the brink of poverty as it is denying him work. As a result the industrialist is growing fat and the poor is emaciating. Capital should perform social functions. Health, Education and Community development must be the driving force behind accumulated wealth. In the absence of measures to meet wants or basic needs accumulated wealth crumbles like house of cards.

**Freedom from fear:**

Morality is fearlessness. People want to live without fear of others. Individual’s life is threatened by violence in various forms. They are:
1. Threats from the state in the form of physical torture, arbitrary arrest and detention.
2. Threats from other states in the form of war, support for oppressive regimes
3. Threats from other groups of people like ethnic conflicts, crime, street violence
4. Threats directed at women in the form of rape and domestic violence
5. Threats directed against children – child abuse.

State government legislation in providing the right to habeas corpus marks the brightest period in history of human civilization. Yet, in many parts of the world number of people are incarcerated in jails without fair trials for political reasons, laws regarding rape must be mark stringent and implementation of laws regarding personal security of child must be ensured.
Freedom of worship:

Morality finds expression in religion. Religion is both personal and social. A personally religious man or personal morality need not be expressed socially. This may make him to be bracketed as irreligious. Invariably religion is expressed socially. Religion plays an important role in moulding the individual and the society. Religion may be a religion of majority or the religion of minority. Countries, which are in the stage of transition to democracy generally face four challenges:

a. A critical challenge is to integrate minorities and to address horizontal inequality between ethnic groups or geographic regions. Perhaps the most persistent weakness of majoritarian democracies is discrimination against minorities and worsening of horizontal inequalities.

b. A second key weakness is the arbitrary exercise of power. Elected governments frequently lose legitimacy and popular support when they behave in an authoritarian manner. When elite group act as if they are above the law or when elected representatives arbitrarily remove judges, civil servants and others, faith in democratic institutions weakens.

c. A third weakness is neglecting the economic dimension of human rights. Many democracies fail to address the economic and social rights of people, mainly because this neglect does not hurt the electoral outcomes for those in power.
d. Finally, failing to deal adequately with the legacy of an authoritarian past can lead to the recurrence of violence and the reversal of democratic rule.²

Besides these rights there is freedom for equality, that is, right against discrimination, freedom from injustice, right to form association and participation and soon. Despite the existence of these rights, abuse of human rights is there. Both democracies and authoritarian governments are tolerating the abuse of human rights. This is so because only the privileged can use the right meaningfully. Unprivileged has no means to fight for his rights. Therefore, the unprivileged must be empowered. So what form of State-democratic or authoritarian is the question to be discussed.

**Government:**

State is omnipresent in any discussion of rights. It is the culprit and protector, as judge, jury and defendant. Many times it acts against itself – that is, it has killed and tortured the individual through the institution of police. Does a democratic government can provide protection and honour human rights more than an authoritarian form of government? One thing is clear: that government is good where there is rule of law.
Bertrand Russell says, "In no profession is there any respect for the native pride without which a man cannot remain whole; the world ruthlessly crushes it out, because it implies independence, and men desire to enslave others more than they desire to be free themselves. Inward freedom is infinitely precious, and a society which will preserve it is immeasurably to be desired". He sets out two principles for social reconstruction:

1. The growth and vitality of individuals and communities is to be promoted as far as possible.
2. The growth of one individual or one community is to be as little as possible at the expense of another.

In other words the 'race horse' needs to be shackled when it is in race with an 'ordinary horse'. Thus discrimination on the grounds of inequality is necessary. It is a moral imperative too.

I would like to quote Abraham Lincoln's letter to James N. Brown. Regarding race and equality: "... I have made it equally plain that I think the negro is included in the word 'men' used in the Declaration of Independence. I believe that declaration that 'all men are created equal' in the great fundamental principle upon which our free institutions rest; that negro slavery is violative of that principle, but that, by our frame of government, that principle has not been made one of legal obligation, that by our frame of government, the States which have slavery are to retain it, or surrender it at their own pleasure; and that all others
- individuals, free-states and national government
- are constitutionally bound to leave them alone about it.

"I believe our government was thus framed because of the necessity springing from the actual presence of slavery, when it was framed.

"That such necessity does not exist in the territories, where slavery is not present" In this letter Abraham Lincoln quotes Mr. Clay, which runs as follows:

"Now, as an abstract principle, there is no doubt of the truth of that declaration (all men created equal) and it is desirable, in the original construction of society, and in organized societies, to keep it in view, as a great fundamental principle...... If a state of nature existed and we were about to lay the foundation of society, man would be more strongly opposed than I should to incorporate the institution of slavery among its elements"

Lincoln further says "Exactly so. In our new territories, a State of nature does exist"

On the same lines I would like to argue that the words, "we the people of India" in the preamble of the constitution include all those who live in India or who are the citizen of the Indian State: "We the people of India" includes people of all Varnas, who have pledged to themselves to secure all its citizens:
"Justice – Social, economic and political Liberty – of thought expression, belief, faith and worship

Equality of Status and of opportunity and to promote among them all fraternity assuring the dignity of the individual and unity and integrity of the nation”.

This pledge is a moral pledge. It is the commitment imposed on the state to secure social justice to its people. Any aberration to this pledge is a constitutional sacrament. Therefore, any legislation on the grounds of discrimination to achieve equality is a sacred duty of the legislatures. But no legislator enter “parliament without hypocrisy”6. It is because self interest or the interest of the group or community which he represents. May be it is the community of industrialists, religion or science. Their interests are so fixed and regimented because of a hierarchical society. Andre Beteille express this truth thus: “...in all hierarchical societies – by which I mean societies are hierarchical by design and not merely in fact – the individual counts for little and the group for a great deal, there is .... no exception to this”7

Beteille argues for equality of life – chances rather than for equality of opportunity. He makes a point “that quotes for disadvantaged group are best viewed as matters not of right but of policy”. He further says “The continued existence of caste is one thing; its legitimacy is a different thing together. The attempt to invest the ‘caste system with legitimacy by claiming that its
constituent units have rights and entitlements is bound to be defeated in the end.  

"Policies, unlike rights are not absolutes"; they have to be examined in terms of costs and benefits. ....Both costs and benefits must be taken into account in assessing any policy of affirmative action...... Salaried employment is a source of security and status to the individual and his family; but it, is difficult to judge how far the benefit of public employment can or should spread from the individual to his kith & kin and to his community....... But reservation of posts beyond a point becomes counter productive when it creates or reinforces the feeling that the rights of the weak can be protected only by those of their own caste"....is the argument of Beteille.

This argument is valid and pragmatic in the light of globalization where the government is privatizing all business undertakings and replacing the work force with advanced machinery. When government is not employing the personnel but for the essential services, reservation provisions of the constitution got diluted. However, reservation policy has to be pursued besides the policy of life changes. Because, the designed hierarchical society is reluctant to open its space for the public. Experience shows despite the right to discrimination constitutional provisions are not honoured without the direction or interference of courts.
The most pragmatic way of reducing social inequalities and removal of customs in society by way of inter caste marriage. Marriages must be programme of the government and marriages must be sponsored by the government. The government should make a policy that marriage of a Sudra girl with any of the other three Varnas or Vice-Versa should be secured. Security can be guaranteed by empowering the newly wed couple by providing financial assistance. Financial assistance can not be a paltry five thousand to twenty thousand rupees for inter caste marriages, it is being observed at present by some governments. That would not suffice, married life of a couple must be socially stable. At least, five lakhs of rupees shall be given to them which would ensure social stability and moral courage for the couple to face society in times of adversity. There are instances specially among the upper castes who uses the opportunities for their benefit. There are instances of

1) a Brahmin girl having been brought up in a well-to-do advocate family upto 15 years claimed to be adopted daughter of a backward community member for getting admitted in a medical college
2) a high caste student declared himself to have embraced neo-Buddhism for the purpose of securing admission in a medical college.
3) In another case, a high caste women married a scheduled caste man and sought a reserved post on that ground

Hence, this proposal of inter caste marriage would be definitely be successful with sufficient monitary package. Clause must be added here that
in case of divorce the beneficiary should return the money or have to serve a term in jail.

State intervention is a must to reduce inequalities. Beteille says "The fact that some inequalities can be removed or reduced by direct government action does not mean that they can all be removed or reduced by it" He draws the distinction between

(i) the removal of disabilities and
(ii) the equalization of life chances.

The two are by no means unrelated, but they are not the same in terms of either priority or feasibility and they call for different types of strategic action".

Dipankar Gupta argues that policies of positive discrimination must be devised in a way that they enhance the principle of fraternity. Reinterpreting Rawls' theory of justice in this light he maintains that positive discrimination benefits the society as a whole rather than any one section of people. By allowing people to acquire socially useful assets, it adds to the common pool of talents, and this is to the advantage of the entire society. In his words "talents and attributes may be housed in persons, but they are social attributes to be harvested for the society as a whole".

He further argues that "To romanticize the labours of hereditary cobblers, scavengers, artistic serfs and other menials is certainly a view taken safely from the outside... Regardless of the intrinsic worth or dignity of such
labours the moot point is that such skills that are historically un-privileged possess are not acknowledged as social assets worth acquiring.\textsuperscript{10}

Gupta points out the loopholes of Dworkin’s positive discrimination and Rawl’s difference principles thus:

“If black is deemed to be a socially useful colour, or attribute, then what happens to those who are not black and do not have this socially useful trait? Fraternity and its corollary, inter subjectivity that Rawls works so hard to protect and retain through the difference principle, appears to be the first casualty here. If the population is to be divided on the basis of colour and caste then fraternity will be surely be problematic. How can we then ‘share in one’s another fate’?\textsuperscript{11} Further how do we decide when black is no longer a useful trait in individual cases? In other words, is the colour black, or one’s membership in a certain caste background, equally important from a social point of view to all member of these communities?\textsuperscript{12}"

It is to be borne in mind that there is no fixed principle or scheme to implement social justice in all times for all societies. Dr. Ambedkar had said “supposing for instance, reservations were made for a community or a collection of communities the total of which came to something like 70 percent of the total posts under the state and only 30 percent are retained as the unreserved. Could anybody say that the reservation of 30 percent as open to general competition would be satisfactory from the point of view of giving effect to the first principle, that these should be equality of opportunity”\textsuperscript{13}
What form of Government to be opted: communism or any form of authoritarianism in principle can do justice to the individuals. But in these regimes there will be no freedom for individuals and institutions of the state are almost personalized. Communism may speak of only economic equality controlling the means of production and capital by the State. Economic activity is one face of life. It lacks social and political facet of the individual. It does not breed fraternity among individuals as it encourages violence to overthrow the capitalist. Authoritarianism does not give way for change of leadership by peaceful means.

Many a time an authoritarian regime would be the programme of one individual. It may be anti-rational. History shows that such regimes died pre-maturely without realizing their ends. For instance, Nazism and Fascism. Communism is also authoritarian. Denial of basic freedom to the individual resulted in the collapse of communism in the world.

Therefore, a better alternative is democracy. It is characterized by periodic election which removes and replaces governments peacefully, tables different policies for the people. It recognizes free speech, free publication, broadcasting and allows for the criticism of people in power. Democratic society is marked by tolerance. But if it extends unlimited tolerance it is likely to be destroyed and destroy tolerance with it. So a tolerant society must be prepared in some circumstances to suppress the enemies of tolerance, remarks Popper. It should not of course do so unless they constitute genuine danger – quite apart from any thing else this leads to which hunting. And it should try all in its power to meet such people on the level of rational argument. A tolerant society can survive only if it is prepared
in the last analysis, to restrain such people by force. Popper says, "we should .... consider incitement to intolerance and persecution as criminal, in the same way as we should consider incitement to murder, or to kidnapping, or to the revival of the slave trade, as criminal".

John Rawls discusses whether justice requires the toleration of the intolerant. " Toleration is not derived from practical necessities or reasons of state,". Says Rawls. Moral and religious freedom follows from the principle of equal liberty where the suppression of liberty is based upon theological principles or matters of faith, no argument is possible.

Some political parties in democratic states hold doctrines that commit them to suppress the constitutional liberties whenever they have the power. Again, there are those who reject intellectual freedom but hold position in the university. It may appear that toleration in these cases is in consistent with the principles of justice.

With respect to religious toleration he distinguishes three questions:

1. There is the question whether an intolerant sect has any title to complain if it is not tolerated.

2. Under what condition tolerant sects have a right not to tolerate those which are intolerant

3. When they have the right not to tolerate them for what ends it should be exercised"
Rawls concludes that “an intolerant sect does not itself have title to complain of intolerance”\(^\text{18}\). The freedom of the intolerant shall be restricted only when the tolerant sincerely believes that his own security and institutions of liberty are in danger. Then the intolerant cannot be tolerated.

Karl Popper in “The open society and its enemies” suggests to “minimize avoidable suffering”. This has an immediate effect of drawing attention to problems. For instance, an education authority set itself the aim of maximizing opportunity for the children under its care it might not be sure how to go about this. It might start thinking in terms of spending money on the building of model schools. But when it sets itself the aim of ‘minimizing disadvantage’ directions might be at giving attention to unprivileged school those with worst staffing problems the most un crowded classes, the slummiest buildings.

The Popperian approach instead of encouraging one to think of building utopia it makes one to see out and try to remove the specific social evils under which human beings are suffering. It starts from concern with human beings and involves a permanent, active willingness to remould institutions.

“Minimise unhappiness” is not the opposite of the utilitarian maxim; “maximise happiness” Popper says there is logical asymmetry here. “we do not know how to make people happy, but do know the ways of lessening their unhappiness” Further, the utilitarian formula “Maximise pleasure” assumes, in principle, continuous pleasure pain scale which allows to treat degrees of pain as negative degrees of pleasure. But from the moral point of view, pain
cannot be outweighed by pleasure, and especially not one man’s pain by another man’s pleasure. Instead of the greatest happiness for the greatest number, one should demand, more modestly the least amount of avoidable suffering for all, and further, that unavoidable suffering such as hunger in times of unavoidable shortage of food should be distributed as equally as possible.”

There is no single model for all societies. Broadly two types of societies are differentiated. One on the basis of race, colour, religion and the other on the basis of ascribed social differentiation. Both have different histories. History is politics retold. Power is insensitive to human sensibilities and needs. It is indifferent to justice. For power, justice consists in the culmination consolidation and establishment of supremacy in the end. It may be the supremacy of the individual or of a community or of an ideology. While achieving the end human sufferings were not counted. This must be corrected so that power must become an instrument to end the sufferings of the individual or the community only then social justice became that substratum of society.

Russell believes that it is possible to make human life creative in the midst of cruelty, strife and hatred. “To make the individual life creative is far harder in a community based on possession that it would be in such a community as human efforts may be able to build up in the future. Those who are to begin the regeneration of the world must face loneliness, opposition, poverty and obloquy. They must be able to live by truth and love with a
rational un congealable hope, they must be honest and wise, fearless and guided by consistent purpose. A body of men and women so inspired will conquer – first the difficulties and perplexities of their individual lives, then, in time, though perhaps only in a long time, the outer world. Wisdom and hope are what the world needs; though it fights against them, it gives its respect to them in the end.  

Somebody should take an initiative to say "No, this is not right; this is not good, this is not a holy cause, in which brightness of youth is destroyed and dimmed". It is the old people who are sinned. There is spiritual death. We should come out of this death. Social reconstruction is not a cry. It must be an earnest effort of the government to set right centuries of exploitation.
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CHAPTER VI

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