

HUMAN RIGHTS AND SOCIAL JUSTICE

Dr. Ashu Vyas Maharshi, Assistant Professor, Amity Law School, Amity University, Jaipur, Rajasthan

ABSTRACT

Social Justice is a concept of fair and just relations between the individual and society. It can be defined as "justice in terms of the distribution of wealth, opportunities, and privileges within a society." It is an underlying principle for peaceful and prosperous coexistence within and among nations. It also includes the removal of barriers that people face because of gender, age, race, ethnicity, religion, culture or disability. Whereas Human Rights can be defined literally as the rights that one has because one is human. The Preamble of the Universal Declaration of Human Rights states that "recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world". Human rights and social justice are not synonymous and are two different concepts but they are closely linked. The Universal Declaration of Human Rights includes economic, social and cultural rights such as the right to health, security in the event of unemployment, and education. In 1966, these rights were brought into the International Covenant on Economic, Social and Cultural Rights (ICESCR), part of the International Bill of Human Rights. With this The Vienna Declaration and Programme of Action affirm that "Human rights education should include peace, democracy, development and social justice, as set forth in international and regional human rights instruments, in order to achieve common understanding and awareness with a view to strengthening universal commitment to human rights." So the social justice is based on the concepts of human rights and equality, and can be defined as "the way in which human rights are manifested in the everyday lives of people at every level of society".

Keywords

Human Rights, Social Justice, Universal Declaration of Human Rights

"The challenge of social justice is to evoke a sense of community that we need to make our nation a better place, just as we make it a safer place."

- Marian Wright Edelman

INTRODUCTION

Social Justice is a concept of fair and just relations between the individual and society. This is measured by the explicit and tacit terms for the distribution of wealth, opportunities for personal activity and social privileges [1]. So in other term Social justice is a political and philosophical concept which holds that all people should have equal access to wealth, health, wellbeing, justice and opportunity [2]. It can be defined as "justice in terms of the distribution of wealth, opportunities, and privileges within a society." It is an underlying principle for peaceful and prosperous coexistence within and among nations. It also includes the removal of barriers that people face because of gender, age, race, ethnicity, religion, culture or disability. Whereas Human Rights can be defined literally as the rights that one has because one is human [3]. The Preamble of the Universal Declaration of Human Rights states that "recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world" [4]. Human rights and social justice are not synonymous and are two different concepts but they are closely linked. The Universal Declaration of Human Rights includes economic, social and cultural rights such as the right to health, security in the event of unemployment, and education.

CONCEPT OF SOCIAL JUSTICE IN INDIA

"Another essential to a universal and durable peace is social justice".

- Arthur Henderson

The Constitution of India was adopted on November 26, 1949. However some of the provisions came into force immediately but the remaining provisions of the

constitution came into force on January 26, 1950. This day is celebrated as the Republic Day. The Indian Constitution is unique in its contents and spirit. Through borrowed from almost every constitution of the world, the constitution of India has several salient features that distinguish it from the constitutions of other countries [5]. During drafting of Constitution, the makers were highly influenced by the feeling of social equality and social justice. For this, they incorporated such provisions / words in the constitution of India as “Socialist”, “Secular”, “Democratic” and “Republic, which reflects India’s from as a “Social Welfare State.” The framers of the Constitution of India realized that inequality is a hindrance to re realize democracy. Thus securing social justice was identified as the first objective before the nation and was included in the Preamble of the Constitution of India. It stands for elimination of social discrimination on the grounds of caste, creed, colour, religion, sex or place of birth [6]. Dr. Bhimrao Ambedkar was the first Law Minister of the India and the chairman of the drafting committee for The Constitution of India. He was tried to turn the Wheel of the Law toward social justice for all. He is the man of millennium for social justice, since he was the first man in history to successfully lead a tirade of securing social to the vast sections of Indian humanity, with the help of a law. The term ‘justice’ in the Preamble embraces three distinct forms – social, economic and political, secured through various provisions of Fundamental Rights and Directive Principles. Social justice denotes the equal treatment of all citizens without any social distinction based on caste, colour, race, religion, sex and so on. It means absence of privileges being extended to any particular section of the society, and improvement in the conditions of backward classes (SCs, STs, and OBCs) and women. Economic justice denotes on the non – discrimination between people on the basis of economic factors. It involves the elimination of glaring inequalities in wealth, income and property. A combination of social justice and economic justice denotes what is known as ‘distributive justice’. Political justice implies that all citizens should have equal political rights, equal voice in the government. [7]

The concept of social justice is a revolutionary concept which provides meaning and significance to life and makes the rule of law dynamic. When Indian society seeks to meet the challenge of socio-economic inequality by its legislation and with the assistance of the rule of law, it seeks to achieve economic justice without any violent conflict. The ideal of a welfare state postulates unceasing

pursuit of the doctrine of social justice. That is the significance and importance of the concept of social justice in the Indian context of today [8]. The Constitution of India provides a comprehensive list of rights (Part III of the Constitution) of which the right to equality is the most significant for the achievement of social justice. The term ‘equality’ means the absence of special privileges to any section of the society, and provision of adequate opportunities for all individuals without any discrimination. In part IV of the Directive Principles of State Policy also reflects the constitutional strategy for securing social justice.

The right to equality includes [9]:

- Equality before law,
- Prohibition of discrimination on the grounds of religion, race, sex, place of birth or anyone of them,
- Equality of opportunity in matters of public employment and abolition of untouchability.

Further the constitution empowers the state to make special provision for the advancement of any socially and educationally backward classes of citizens or for the scheduled castes and scheduled tribes. Accordingly there is reservation in government services for these classes.

The Constitution also lays down a number of Directive Principles of State Policy, which are basically aimed at the establishment of social justice. By Article 36 to 51 these directive principles of State policy was incorporate which the State must keep in view while governing the nation. According to Dr. B.R. Ambedkar, these Directive Principles of State Policy are ‘novel feature’ of the Indian Constitution. They are enumerated in Part IV of the Constitution. They can be classified into three broad categories- socialistic, Gandhian and liberal- intellectual. The directive principles are meant for promoting the ideal of social and economic democracy. They seek to establish a ‘welfare state’ in India. However, unlike the Fundamental Right, these directives are made non-justiciable in nature by Article 37, that is, they are not enforceable by the courts for their violation. Yet, the Constitution itself declares that ‘these principles are fundamental in the governance of the country and it shall be the duty of the state to apply these principles in making laws’. Hence, they impose a moral obligation on the state authorities for their application. But, the real force

(sanction) behind them is political, that is, public opinion. [10]

Working of democracy shows that both the central and state Governments have faithfully tried to implement the above provisions for the upliftment of socially backward sections of the state. By inserting Article 31C by the Constitution (25th Amendment) Act 1971, the Government was determined to implement the Directive Principles of State Policy. All these led to the tremendous improvement since independence in the condition of the scheduled castes, the scheduled tribes and women. [11]

CONCEPT OF HUMAN RIGHTS IN INDIA

“Life is not a matter of place, things or comfort; rather, it concerns the basic human rights of family, country, justice and human dignity”.

- Imelda Marcos

Human rights are referred as a fundamental rights, basic rights, inherent right, natural rights and birth rights. Human rights are rights of exceptional importance and belong to every individual by virtue of being a human [12]. “All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood”, is the proposition of the Universal Declaration of Human Rights (UDHR) which is a milestone document in the history of human rights. Drafted by representatives with different legal and cultural backgrounds from all regions of the world, the Declaration was proclaimed by the United Nations General Assembly in Paris on 10th December 1948 (General Assembly resolution 217 A) as a common standard of achievements for all peoples and all nations. It sets out, for the first time, fundamental human rights to be universally protected and it has been translated into over 500 languages. [13]

Indian culture is a synthesis of diverse cultures and religions. In the present World, India has recognised that human rights and progress are inseparably linked and India has been an important member of the Universal Declaration of Human Rights, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child. The commitment of India for human rights is also depicted in The Constitution of India, where incorporation of Fundamental Rights, is the best example of this.

The Constitution of the Republic of India, which came into force on 26th January 1950 with 395 Articles and 8 Schedules and is one of the most elaborate fundamental laws ever adopted, declares India to be a Sovereign, Socialist, Secular and Democratic Republic where term ‘democratic’ denotes that the Government gets its authority from the will of the people and gives them a feeling that they all are equal “irrespective of their race, religion, language, sex and culture”. The Preamble to the Constitution pledges justice, social, economic and political, liberty of thought, expression, belief, faith and worship, equality of status and of opportunity and fraternity assuring the dignity of the individual and the unity and integrity of the nation to ail its citizens [14]. India was a signatory to the Universal Declaration of Human Rights. A number of fundamental rights guaranteed to the individuals in Part III of the Indian Constitution are similar to the provisions of the Universal Declaration of Human Rights.

It is the duty of every nation to create such laws and conditions that protect the basic Human rights of its citizens. India being a democratic country provides such rights to its citizens and allows them certain rights including the freedom of expression. These rights, which are called ‘Fundamental Rights’ form an important part of the Constitution of India. The six Fundamental Rights as mentioned in our Constitution are:

1. Right to Equality
2. Right to freedom
3. Right against Exploitation
4. Right to Freedom of Religion
5. Cultural and Educational Rights
6. Right to Constitutional Remedies.

SOCIAL JUSTICE AND HUMAN RIGHTS

“Democracy is not just constitutional and legislative rules; it is a culture and practice and adhering by the law and respecting international human rights principles”.

- Hamad bin Isa Al Khalifa

In recent decades there are a multitude of increasingly urgent demands for social justice and for the protection of

human rights. Politically, those struggling to promote social justice have worked hand in hand with human rights advocates. The social injustices of racial and sexual discrimination have been protested as violations of the fundamental human rights to equal opportunity and to the equal protection of the laws; a human right to an adequate standard of living has been proclaimed on the basis of the injustice of an affluent society in which the rich can enjoy luxuries while the poor lack the means to meet their basic human needs. Such political arguments suggest to the thoughtful observer that there is some close connection between social justice and human rights. [15]

Human rights and social justice are not synonymous and are two different concepts but they are closely linked. The Universal Declaration of Human Rights (1948) includes economic, social and cultural rights such as the right to health, security in the event of unemployment, and education. In 1966, these rights were brought into the International Covenant on Economic, Social and Cultural Rights (ICESCR), part of the International Bill of Human Rights [16]. With this The Vienna Declaration and Programme of Action affirm that “Human rights education should include peace, democracy, development and social justice, as set forth in international and regional human rights instruments, in order to achieve common understanding and awareness with a view to strengthening universal commitment to human rights.” So the social justice is based on the concepts of human rights and equality, and can be defined as “*the way in which human rights are manifested in the everyday lives of people at every level of society*”. [17]

The Constitution of India has solemnly promised to all its citizens justices – social, economic and political; liberty of thought expression, belief, faith and worship; equality of status and of opportunity; and to promote among the all fraternity assuring the dignity of the individual and the unity of the nation. The Constitution has attempted to attune the apparently conflicting claims of socio-economic justice and of individual liberty and fundamental rights by putting some relevant provisions. [18]

CONCLUSION

Thus Human Rights and Social Justice have a shared goal: human dignity, equally for all. The issues that make social justice difficult to achieve, such as poverty, exclusion and discrimination are in direct contradiction with human rights, which apply to all individuals indiscriminately. In

addition to promoting equality generally, human rights protect against direct and indirect discrimination based on certain characteristics. Article 14 ensures that no one may be discriminated against because of their sex, race, religion, political opinion, sexual orientation or nationality in exercising their rights. Equal distribution of wealth is a cornerstone of social justice and equal sharing of wealth is enhanced through equal opportunity for employment. [19]

Human rights provide a legal framework that allows individuals to hold government to account and requires the state to create conditions necessary for the achievement of social justice.

“The World is my country, all mankind are my brethren and to do good is my religion”.

- Thomas Paine

REFERENCES

- [1] Social justice – Wikipedia. Retrieved from https://en.wikipedia.org/wiki/Social_justice
- [2] Social Justice Definition | Investopedia. Retrieved from <https://www.investopedia.com/terms/s/social-justice.asp>
- [3] Jack Donnelly, Universal Human Rights in Theory and Practice, 7 (3rd Ed. 2013).
- [4] Universal Declaration of Human Rights, Preamble, Dec 10, 1948.
- [5] Concept Of Social Justice Under Indian Constitution. Retrieved from <http://www.lawyersclubindia.com/articles/Concept-Of-Social-Justice-Under-Indian-Constitution-3685.asp>
- [6] Khushboo (2017). Social Justice in India. Retrieved from <https://www.importantindia.com/26988/social-justice-in-india/>
- [7] Ibid 5.
- [8] Anshuman Gupta (n.d.). Concept of Social Justice and The Poor. Retrieved from <http://www.legalserviceindia.com/articles/sojt.htm>

- [9] Ibid 6. Bangladesh, 1st ed. (New Delhi: Deep and Deep Publications, 1991) 63.
- [10] Laxmikanath, M., Indian polity (2008) p. 29
- [11] Ibid 6.
- [12] Ramakrishnan T. K. (2013). Human Rights in India. School of Distance Education: University of Calicut.
- [13] UNITED NATIONS, Universal Declaration of Human Rights. Retrieved from <http://www.un.org/en/universal-declaration-human-rights/>.
- [14] A.B.M. Mafizul Islam Patwaris, Fundamental Rights and Personal Liberty in India, Pakistan and
- [15] Wellman C. (1997) Social Justice and Human Rights. In: An Approach to Rights. Law and Philosophy Library, vol 29. Springer, Dordrecht.
- [16] Sian Lea (2017). Five Ways Human Rights Help The Fight For Social Justice. Retrieved from <https://rightsinfo.org/5-ways-human-rights-help-social-justice/>
- [17] Ibid 13.
- [18] Ibid 8.
- [19] Ibid 16.