

Social Justice and Indian Constitution

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ABSTRACT

India is one of the largest democracies of the world. The Indian Constitution embraces the goal of achieving social equality in express terms. The author in this research paper has elaborately discussed the scheme of social welfare as enumerated in the Indian Constitution. The Preamble of the Constitution has used the terms like “Socialist”, “Social and Economic Justice”, “Equality”, these terms indicates that the state would extensively involve in social welfare of people, and would try to establish an egalitarian society. Moreover a separate chapter each of Fundamental Rights and Directive Principles of State Policy has been devoted towards the welfare responsibilities of the government, which lays down the norms of ideal governance for people’s welfare and to protect their human rights. The author has stressed that Social justice does not demand equal treatment but preferential treatment. The proper and balanced implementation of government policies is needed to ensure social justice in the society.

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Introduction:

The Indian Constitution is unique in its contents and spirit. The constitutional scholar Granville Austin, in his magisterial work¹, states that probably no other Constitution in the world “*has provided so much impetus towards changing and rebuilding society for the common good*”. Though borrowed from almost every constitution of the world, it has several salient features that distinguish it from the constitutions of other countries. *Social justice* is the idea of creating a society or institution that is based on the principles of equality and solidarity, that understands and values human rights, and that recognizes the dignity of every human being.² Feeling of social justice is a form of relative concept which is changeable by the time, circumstances, culture and ambitions of the people.³ Social inequalities of India expect solution equally. Under Indian Constitution the use of social justice is accepted in wider sense which includes social and economical justice both. The makers of the constitution who were well known to the use and minimalist of various principles of justice wanted to search such form of justice which could fulfill the expectations of whole revolution. Social justice found useful for everyone in its kind and flexible form. Although social justice is not defined anywhere in the constitution but it is an ideal element of feeling which is a goal of constitution and it is the foundation stone of Indian Constitution.

The preamble and various Articles contained in Part IV of the Constitution promote social justice so that life of every individual becomes meaningful and he is able to live with human dignity. The concept of social justice engrafted in the Constitution consists of diverse principles essentially for the orderly growth and development of personality of every citizen. Social justice is thus an integral part of justice in the generic sense. Justice is the genus, of which social justice is one of its species; Social justice is a dynamic devise to mitigate the sufferings of the poor, weak, dalits, tribals and deprived sections of the society and to elevate them to the level of equality to live life with dignity of person. In other words, the aim of social justice is to attain substantial degree of social, economic and political equality, which is the legitimate expectation of every section of the society. In a developing society like ours which is full of unbridgeable and ever widening gaps of

1 Austin Granville, *Working a Democratic Constitution: The Indian Experience*.

2 Zajda J., Majhanovich S., Rust V. (2006) *Education and Social Justice* :ISBN 1-4020-4721-5

3 Krishna Iyear V.R.(1987:53) *Social Justice- Sunset or Dawn*

inequality in status and of opportunity, law is a catalyst to reach the ladder of justice. The philosophy of welfare State and social justice is amply reflected in large number of judgments of this Court, various High Courts, National and State industrial Tribunals involving interpretation of the provisions of the Industrial Disputes Act, Indian Factories Act, Payment of Wages Act, Minimum Wages Act, Payment of Bonus Act, Workmen's Compensation Act, the Employees Insurance Act, the Employees Provident Fund and Miscellaneous Provisions Act and the Shops and commercial Establishments Act enacted by different States.

The preamble itself says: "We, the people of India, having solemnly resolved to constitute India into a sovereign, socialist and democratic Republic and to secure to all its citizens—Justice, social, economic and political...." Clearly, social justice in all its forms and to all citizens was regarded as fundamental to the set-up which our founding fathers prescribed for the country; it is mentioned on top of the other equally sound concepts. The words, "Socialist"⁴, "secular", "democratic" and "republic" have been inserted in the preamble. Which reflects it's from as a "social welfare state." 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.

Under Indian Constitution the use of social justice is accepted in wider sense which includes social and economical justice both. As stated by Chief Justice Gajendragadkar, *"In this sense social justice holds the aims of equal opportunity to every*

⁴ Inserted by Constitutional 42nd Amendment Act (1976).

citizen in the matter of social & economical activities and to prevent inequalities".⁵ The Constitution of India does not completely devoted to any conventional ideology as – Equalitarian, Utilitarian, Contractarian or Entitlement theory. Dedication of constitution is embedded in progressive concept of social justice and various rules of justice such as- Quality, Transaction, Necessity, Options etc are its helping organs.

To accept right to equality as an essential element of justice, Indian Constitution prohibits unequal behavior on the grounds of religion, race, caste, sex. 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. The Preamble secures at all citizens of India equality of status an opportunity. This provision embraces three dimensions of equality- civic, political and economic.⁶ But the question is how to determine inequality? In India it is not easy to determine inequality. Equality is movable concept which has many forms and aspects. It can not be tightened in traditional and principles circle. Equality with equal behavior prohibits arbitrariness in action.

In view of securing to all its citizens social justice Indian Constitution provides some Fundamental rights in Part III some of which are available to all persons and some are enjoyable only by the citizens of India. Further, to realize the goal of social justice the constitution also provides some direction to the State in the form of Directive Principles of State Policy and lays down that the state shall direct its policy towards securing these objectives.

In India, courts have performed a great role to make the social justice successful. In the field of distributive justice, Legislature and Judiciary both are playing great role but courts are playing more powerful role to deliver compensatory or corrective justice but these principles are known as mutually relatives not mutually opposites. Ideals and goals are to deliver social justice. Medium may be distributive or compensatory justice. The adopted type may be of quality, Necessity, Equality, Freedom, Common interest or other. The courts are now taking leading part in the design of administration of many state

⁵ Ganendragadkar P.B. (1964:77,99), Law, Liberty and Social Justice .

⁶ Laxmikanath, M. (2008:29), *Indian polity*.

services - including services for mentally ill and retarded, for prison populations, for public welfare recipients, and for abused children and other dependent persons. With that end in view the Supreme Court of India evolved a new mechanism of *public interest litigation* or social interest litigation in the early eighties. In the fifties and sixties the role of judiciary more or less remained as a sober manifestation of the movement for social justice based on progressive values. While other institutions have lost their progressive shine the judiciary remains a uniquely situated instrument for social justice, perhaps the only effective force for challenging the institutions of the welfare state.

The Supreme Court of India has given a principal and dynamic shape to the concept of social justice. Social justice has been guiding force of the judicial pronouncements. The judiciary has given practical shape to social justice through allowing affirmative governmental actions are held to include compensatory justice as well as distributive justice which ensure that community resources are more equitably and justly shared among all classes of citizens. The concept of social justice has brought revolutionary change in industrial society by charging the old contractual obligations. It is no more a narrow or one sided or obscure concept. It is founded on the basic ideal of socio-economic equality and its aim is to assist the removal of socio- economic disparities and inequalities.

This judicial activism sharing the passion of Constitution for social justice was rejuvenated with the Maneka Gandhi case in which fundamental right of personal liberty has been converted into a regime of positive human rights unknown in previous constitutional diction. Thereafter, gradually the Supreme Court, particularly some socialist justices tried to explore social justice in the Fundamental Rights and Directive Principles of State Policy. In this way the courts try to force the government to realize the new concept of social justice in the cases of Sunil Batra (right against torture); Bandhua Mukti Morcha (right against bondage); Peoples Union for Democratic rights (right against bondage); M.C.Mehta (right against environmental pollution), Upendra Baxi (right to human dignity), Sheela Barse (right to legal aid); many others. In these cases the judges maintain that in a developing society judicial activism is essential for participative

justice and the bureaucrats as well as the elected representative will have to face the judicial admonition and pay the penalty if the people in misery cry for justice.

Indian Constitutional provisions ensuring Social Justice:

Fundamental rights in Part III some of which are available to all persons and some are enjoyable only by the citizens of India are:-

- a) Equality before law (Art 14)
- b) Prohibition of discrimination on ground of religion, race, caste, sex or place of birth (Art 15)
- c) Equality of opportunity in matters of public employment (Art 16)
- d) Abolition of Untouchability (Art 17)
- e) Abolition of titles (Art 18)
- f) Protection of certain rights regarding freedom of speech etc. (Art 19)
- g) Protection of life and personal liberty (Art 21)
- h) Protection in respect of conviction for offenses (Art 20)
- i) Protection against arrest and detention in certain cases (Art 22)
- j) Protection of traffic in human beings and forced labour (Art - 23)
- k) Prohibition of employment of children in factories or mines or in any other hazardous employment (Art 24)
- l) Freedom of Religion (Art 25 - 28)
- m) Protection of interests of minorities (Art 29-30)
- n) Judicial remedies for enforcement of rights conferred by this Part - III of the Constitution (Art 32).

Chapter IV of Indian Constitution Article 36 to 51 incorporate certain directive principles of State policy which the State must keep in view while governing the nation. The most important of these directives are –

- a) Promotion of welfare of the people (Art 38)
- b) Adequate means of livelihood; equal distribution of material resources of the community; distribution of means of production to the common good and equal pay for equal work; - promotion of health and strength of workers, men and women and the children : Protection against exploitation of child hood and youth (Art 39)
- c) Equal justice and free legal aid (Art 39A)
- d) Right to work, education and to public assistance in certain cases (Art 41)
- e) Just and human conditions of work and maternity relief (Art 43)
- f) Living wages for workers (Art 44)
- g) Uniform civil code (Art 44)
- h) Free and compulsory primary education for children (Art 45)

“The principles of Policy set forth in this part are intended for the guidance of the State. While these principles shall not be cognizable by any Court they are nevertheless fundamental in the governance of the country and their application in the making of laws shall be the duty of the State.”⁷

Special provisions for backward classes of society

By incorporating the system of special provision for backward classes of society, it is to try to make the principle of equality more effective. The State, according to Article 15(1) of the Constitution, "shall not discriminate against any citizen on grounds only of religion, race, caste, sex, and place of birth or any of them." Under Article 15(4) the state shall make any special provision for the advancement of any socially and educationally

⁷ Shivarao (Vol. II: 175), *Select Documents*.

backward classes of citizen or for the scheduled castes, and the Scheduled tribes and in the same manner by accepting the opportunity of equality to employment under state in Article 16 (1), it has excepted the principle of equalization under Article 16(4). If it is in the opinion of the state that any class of the citizens has not adequately representation under state employment, state shall make any provision for the reservation of appointments. According to Art 46 the State shall promote with special care the educational and economic interests of weaker sections of the people, and in particular, of the scheduled castes and the scheduled tribes, and shall protect them from social injustice and all forms of exploitation.

In a very important case of *Indra Shahani vs. Union of India*⁸ the Supreme Court declared twenty seven percent reservations legal for socially and economically backward classes of the society under central services. *Social justice* is a dynamic device to mitigate the sufferings of the poor, weak, dalits, tribals and deprived sections of the society.

State to secure a social order for the promotion of welfare of the people Article 38 has been a keystone of the Directive Principles. This *article* is a directive to the State to give effect to the objectives expressed in the Preamble to the Constitution, by securing a social order for the promotion of the welfare of the people. Article 38 stipulates as under:-

(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 endeavor to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocation.

⁸ AIR 1993 SC 497

While reading Arts. 21, 38, 42, 43, 46 and 48A together, the Supreme Court has concluded in *Consumer Education & Research Centre v. Union of India*,⁹ that “*right to health, medical aid to protect the health and vigour of a worker while in service or post retirement is a Fundamental Right.....to make the life of the workman meaningful and purposeful with dignity of person.*” In the instant case, the Supreme Court dilated upon the theme of social justice envisioned in the Preamble to the Constitution and Art. 38. Social Justice is the arch of the Constitution which ensures life to be meaningful and livable with human dignity. Social justice, equality and dignity of the person are cornerstones of social democracy. If a law is made to further socio-economic justice, it must be prima facie reasonable and in public interest. In other words, if it is in negation, it is unconstitutional¹⁰.

Child health and labour

Provisions of articles 39 (e), 39 (f), 41 and 47 can be pressed into service to make suitable provisions regarding child labour. Article 39 clause (e) states that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength. Clause (f) states that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and the childhood and youth are protected against exploitation and against moral and material abandonment.¹¹

Accordingly, the Supreme Court has issued directions to the State to see that an adult member of the family whose child is in employment in a factory, mine or hazardous employment gets employment anywhere, in lieu of the child.¹²

9 AIR 1995 SC 923: (1995) 3 SCC 42

10 *Kasturi Lal v. State of J&K*, AIR 1980 SC 1992: (1980) 4 SCC 1.

11 Substituted by the Constitution 42nd amendment Act (1976), Sec 7, for clause (f) (w.e.f. 3-1-1977)

12 *M.C. Mehta v. State of Tamil Nadu*, AIR 1997, SC 699, paragraphs 29, 30, 31

Article 39 (e) requires the State to direct its policy towards securing that the health and strength of the workers and the tender age of children are not abused. Relying on this Directive Principles, the Court issued directions to State Governments for ensuring that care homes must provide at least the minimum conditions ensuring human dignity.¹³ The state shall in particular, direct its policy towards securing that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment. Relying on *Article 39(e) and (f)*, the Supreme Court laid down the procedural and normative safeguards for adoption of children by foreign parents.¹⁴ Principle 6 of the Declaration of Rights of The Child, 1959, provides that a child of tender years shall not, save in exceptional circumstances, be separated from his mother.

Declaration in law

An express legislative declaration in the law itself that the law was enacted for giving effect to the principles of State Policy in Article 39 (b) and 39 (c), is not a condition precedent to the attraction of the protection under Article 31C to the impugned law. The nexus between the law and the objects of Article 39 (b) could be shown independently of any such declaration by the legislature.

The expression '*material resources*' in *Article 39 (b)* means all things which are capable of producing wealth for the community. It is wide enough to cover not only natural or physical resources, but also movable or immovable property, such as, land, buildings, workshops, vehicles etc.

The word '*distribution*' in *Article 39 (b)* is to be given a wider interpretation. It does not only mean that a property of one should be taken over and distributed to others. It also includes *nationalization*, which is an effective distribution process, as it prevents concentration of wealth in a few hands and thus benefits the society at large.

13 Vikram Dev Singh Tomar v. State of Bihar, AIR 1988 SC 1782; M.C. Mehta v. State of Tamil Nadu AIR 1997 SC 699

14 Lakshmi Kant Pandey v. Union of India, AIR 1984 SC 469.

Equal pay for equal work

'*Equal pay for Equal Work*' has not been secured as a fundamental right, but has been held to be deductible from *Articles 14, 16 and 39 (d)*. It has been held that this principle of *equal pay for equal work*' might be applied to cases of unequal scales of pay based on no classification or irrational classification. Denial of equal pay for equal work becomes irrational classification within Article 14. When the difference in duties difference in pay; difference in duties justifies discrimination in pay then writ can be used to enforce the principles of equal work if Article 14 is infringed.

In making a comparison the Authority should look at the duties generally performed by men and women. Both men and women work at inconvenient times, there is no requirement at all those who work, e.g. at night, shall be paid the same basic rate as those who work normally day shifts.

Thus, a woman who works in a day can not claim equality with a man at a higher basic rate for working nights if, in fact there are woman working in nights at that rate too, and the applicant herself would be entitled to that rate if she changed the shifts. This Article has been described as having the object of securing a welfare state and may be utilized for construing provisions as to fundamental rights.

A statutory corporation (even if it is not a public utility) must comply with Article 39 and charge only fair prices;¹⁵ the *right to livelihood* was not given much importance earlier.¹⁶ However in *Olga Tellis v. Bombay Municipal Corporation*,¹⁷ the Supreme Court has declared it to be a part of the *right to life* guaranteed by *Article 21*. The Court lay down that the Directive Principles contained in *Articles 39 (a) and 41* should be regarded as equally fundamental in understanding and interpreting the meaning and content of Fundamental Rights.

15 O.N.G.C. V. Association AIR 1990 SC 1851, paragraph 15 and 30

16 Re Sant Ram, AIR 1960 SC 932

17 AIR 1986 SC 180

However, the rule as enshrined in Article 39 (d) would not be applicable where the employees belong to separate cadres for which separate minimum qualifications are prescribed and separate selection is made.¹⁸

Equal justice and free legal aid under Article 39A the State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislature or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.

An important impact of article 39 A read with article 21 has been to reinforce the right of a person involved in a criminal proceeding to legal aid. The article has been thus used to interpret (and even expand) the right conferred by section 304 of the Code of Criminal Procedure, 1973.¹⁹

Legal aid may be treated as part of the right created under Article 21; in a suitable case, Supreme Court may direct District judge to arrange legal aid. Article 39A promotes justice on the basis of equal opportunities. It imposes an imperative duty upon the State to provide free legal aid to the poor. It is with a view to enable the poor litigant to have an easy access to a Court of Law to invoke legal right and to secure him equal protection of laws against his well-to-do opponent, that the scheme of affording legal aid and assistance to the poor has been conceived.²⁰ It has now been settled that legal aid constituted a part of the right to personal liberty guaranteed under Article 21 and was enforceable by the Court.

The Government should set up a “*suitor’s fund*” to meet the cost of defending a poor or indigent.²¹ The Court held that although the mandate in Article 39A is addressed to the Legislature and the Executive, yet the Courts, too, are bound by the mandate

18 V.C. G.B. Pant University V. Sr. Kewala Nand AIR 1998 SC 3321.

19 Hussainara V. Home Secretary , State of Bihar, AIR 1979 SC 1369.;Hoskot V. State of Maharashtra, AIR 1978 SC 1548.;State of Haryana V. Darshana, AIR 1979 SC 885.;Khatri V. State of Bihar, AIR 1986 SC 991.;Sukh Dass V. Union Territory, AIR 1986 SC 991.

20 Iyer Krishna MLJ (1985) “*Processual Justice to the peoples*”.

21 State Bank V. N.S. Money, AIR 1976 SC 1111.

contained therein. The Court ruled that it cannot issue a writ of *mandamus* to enforce Article 39A and the social obligation of equal justice and free legal aid has to be implemented by suitable legislation or by formulating scheme for free legal aid. In pursuance of this suggestion, Parliament passed the Legal Services Authorities Act, 1987.

Organization of Village Panchayats

The State shall take steps to organize village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government, as provided in Article 40 of the Constitution.

Just and Humane conditions of work and maternity relief

Under Article 41, it is expected to the state that 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 underserved want. Under Article 42 the State shall make provision for securing just and humane conditions of work and for maternity relief. This Article exhibits the concern of the framers of the Constitution for the welfare of the workers. The Courts may not enforce the Directive Principles as such. But, they must interpret laws so as to further and not hinder the goals set out in the Directive Principles.

Living wages for workers

Article 43 of the Constitution provides the State shall endeavour 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 endeavour to promote cottage industries on an individual or co-operative basis in rural areas. In *PUDR vs. Union of*

India,²² the Supreme Court has held that minimum wages must be given and not to pay minimum wages is the violation of human dignity and it is also known as exploitation. Article 43 sets out the ideals to which our Social Welfare State has to approximate in an attempt to ameliorate the living conditions of the workers. The article has been held to furnish the principle by which *unfair labour practice* can be judged. It is not possible to lay down an exhaustive test of unfair labour practice, but it can be said that unfair labour practice violates the principles of *Article 43* referring to decent wages and living condition for workmen and which practice, if permitted to become normal, would lead to industrial strife

In *Bijoy Cotton Mills Ltd. v. State of Ajmer*,²³ the Court held that the fixation of minimum wages of labourers under the *Minimum Wages Act, 1948*, was in the interest of the general public and, therefore, it was not violation of the *freedom of trade*, secured to the citizens under *Article 19 (1)(g)*.

The basic principle of a Socialist State is to eliminate inequality in income, status and standards of life. The '*living wage*' is to be distinguished from '*minimum*' and '*fair wage*'. While '*living wage*' is such wage as enables the male earner to provide for himself and his family not merely the bare necessities but a measure to frugal comforts, '*minimum wage*' on the other hand, is just sufficient to cover the bare needs of a workman and his family.

A '*fair wage*' is a mean between '*living wage*' and *minimum wage*.²⁴ It was been held that though our constitutional aim, as laid down in *Article 43*, is '*living wage*' for workers, in actual practice, our general wage structure has at best reached to the lower level of '*fair wage*'. The State shall take steps, by suitable legislation or in any other way, to secure the participation of workers in the management of undertaking, establishments or other organization engaged in any industry. *Article 43A* was inserted by the Constitution (42nd Amendment) Act, 1976. *The worker's*

22 AIR 1982 SC 1473

23 AIR 1955 SC 33, *Edvard Mills Co. V. State of Ajmer* AIR 1955 SC 25.

24 Jain M.P.(1987:745) *Indian Constitutional Law*

participation may mean sharing in decision-making and policy-making with the management, or it may be described as transfer of decision-making right in the enterprise or undertakings.

Free and Compulsory Education for Children

Article 45 lays down that the State shall endeavour to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years.

The Directive contained in Article 45 has been held to be a fundamental right forming part of the Right to life secured by Article 21. It implies that the direction under Article 45 is not confined merely to primary education. It extends to the duty to provide free education until the children attain the age of 14 years, whatever the stage of education it may come to be.

The principles enshrined in *Articles 41 and 45* are not only necessary, but also desirable, for the performance of the State's ultimate duty and responsibility, to provide education to all its citizens, for an intelligent understanding of social and political problems by every citizen in a democracy. Therefore *Articles 29 and 30* which secure *Cultural and Educational Rights to minorities*, the Court held, were to be read in the backdrop of *Articles 41 and 45*. By the 86th Amendment Act, 2002 this directive in Article 45 of Free and compulsory education for children has been given the status of fundamental right and can be enforced in the Court of law.

Promotion of educational and economic interests of Scheduled Castes, Scheduled Tribes and other weaker sections

Article 46 provides that the State shall promote with special care the educational and economic interests of the weaker sections of the people and in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.

An employee belonging to backward classes has a fundamental right to be considered for promotion on the basis of Article 16 read with Article 46. In a case²⁵ the court held that “means test” might be adopted for identifying the weaker section of the people. The commonly known as *Mandal Commission case*, the Court laid down that the expression ‘weaker sections of the people,’ was wider than the expression “backward classes of citizens” or “socially and educationally backward class” or “Scheduled Caste and Scheduled Tribes”. The expression included all sections of the society, who were rendered weaker due to, various causes including poverty and natural and physical handicaps.

The State may make such provisions or reservations for the betterment and amelioration of the weaker and economically backward sections and to implement the Directive Principle contained in *Article 46*.

Conclusion

In India, courts have performed a great role to make the social justice successful. In the field of distributive justice, legislature and judiciary both are playing great role but courts are playing more powerful role to deliver compensatory or corrective justice but these principles are known as mutually relatives not mutually opposites. Ideals and goals are to deliver social justice. Medium may be distributive or compensatory justice. The adopted type may be of quality, Necessity, Equality, Freedom, Common interest or other. Although the Supreme Court has not found any possible definition of Social Justice²⁶ but has accepted it as an essential and an organ of legal system.

Despite the well intentioned commitment of ensuring social justice through equalization or protective discrimination policy, the governmental efforts have caused some tension in the society. In the name of social justice even such activities are performed which have nothing to do with social justice. The need of hour is to ensure the proper and balanced implementation of policies so as to make social justice an effective vehicle of social

25 *Indra Sawhney v. Union of India* AIR 1993 SC 477

26 *Mysore Mills Co. Ltd. V. Sooti Mill Mazdoor Union* , AIR 1955 S.C. 170

progress. The preamble to the Constitution read with Directive Principles in Arts. 38, 42, 43, 46 and 48 A promotes the concept of social justice. The aim of social justice is to attain a substantial degree of social, economic and political equality. It is a device to mitigate the suffering of the poor, weak, Tribal's and the deprived sections of the society and to elevate them so that they can live with dignity. In course of time the courts have raised social and economic justice to the high level of a Fundamental Right.

The preamble, the Fundamental Rights and the Directive Principles have been characterized as the 'trinity' of the Constitution'. The system of vote catching in Indian democratic setup did not allow to downtrodden people (most socially and economically backward society) to come out from dark to light. Thus are so called legislatures (elected representatives) never made an attempt to follow the Indian Constitution in practice. It is the main cause that the country could not show good results in implementation and enforcement of the Directive Principles of State Policy, nicely enshrined in the most modern constitution of the world. Due to non-implementation of the Directive Principles of State Policy, real victims are the people of this country. Hence, there is ample scope on the subject to say and write but this article concludes with the following lines *"Government and their policies may change. What constitutes to the stability of the State is its judiciary. A nation may afford to lose its confidence in its Kings or even in its Parliament but it would be an evil they if it loses its confident in its judiciary. Amidst the strident clamour of political strife and the tumult of the clash of conflicting classes the court of law remain steadfast and impartial. Only a real and full acceptance of these principles can enable our new born democratic republic to survive"*