

INTRODUCTORY OVERVIEW TO SOCIAL JUSTICE AND LAW

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ABSTRACT

Civilization has the foremost thirst for “Justice”. Dennial Webster held that “Justice has been the highest interest of man, which he seeks persistently, fights for it resolutely, expects confidently from the Ruler and neighbours. Denial or absence thereof he reacts bitterly”. We have seen that law and justice are complementary to each other. They cannot survive without each other. There was a time when justice was dispensed as per law. It is same but now there is a change in the conception. Now it is the feeling that law must be according to justice. Justice should not be according to law. There are several faces of the real meaning of law, likewise several aspects of real meaning of justice. In this paper an attempt was made to examine the real faces of law and justice, particularly in Indian conditions.

KEYWORDS: Social Justice, Law, Dharma, Community, India.

The different concepts of justice, as discussed in ancient Western philosophy, were typically centered upon the community. Aristotle believed rights existed only between free people, and the law should take “account in the first instance of relations of inequality in which individuals are treated in proportion to their worth and only secondarily of relations of equality.” Social justice is the ability people have to realize their potential in the society where they live. “Social justice is generally used to refer to a set of institutions which will enable people to lead a fulfilling life and be active contributors to their community. The goal of social justice is generally the same as human development, and the relevant institutions are usually taken to include education, health care, social security, labour rights , as well as broader system of public services, progressive taxation and regulations of markets, to ensure fair distribution of wealth, equality of opportunity, and no gross inequality of outcome.

The concept of “Law” was all pervading and brought in its fold not only the duty to be performed by every individual comprising the social groups in those times but was also the ideal of those who were charged with the function of administering justice to the disputing parties. It was, therefore, said that to do justice, in truth as well as in deed was the ‘dharma’ of the King. If he failed to perform this duty, it was even permitted by the shastras to ask such a king to step down from the throne or if he was unwilling to do, he could be dethroned by force. It was thus understood that ‘dharma’ is law, ‘dharma’ is truth, ‘dharma’ is justice, it is virtue as opposed to vice: it is rightful conduct as against a wrongful one and a moral act in contradiction to an immoral or amoral one.

Ancient Hindu society was based on equality of all beings. However, to divide labour society divided itself into hundreds of Jati. India was governed by people of non-Hindu faiths from the 8th century which caused ruptures in societal fabric. Caste is a word from the Portuguese word “casta” and caste came to define the jatis only 500

years ago. Considerable social engineering occurred during the British rule which impacted the society's self-governance. There was some social injustice in which some jatis considered themselves superior to others. The present day jati hierarchy is undergoing changes for variety of reasons including 'social justice', which is a politically popular stance in democratic India. Institutionalized affirmative action has swung the pendulum. The disparity and wide inequalities in social behavior to some of the jatis led to various reform movements in Hinduism for centuries. While legally outlawed, the caste system remains strong in practice, with social and employment opportunities strongly governed by one's caste of birth. In this ethical meaning justice is considered not in its narrow meaning of "legal justice" but as something, which is good in itself. It is then identified with the ideal of human good. It is seen as an instrument of good life. Legal activities can be evaluated by the standard of good life. Law then becomes a means of procuring good life. In this sense justice is just like Dharma. Though there can be some difficulty in determination of the nature of the good life and right method to ensure it, yet there is no difficulty in realizing that justice is the realization of good through law and the ideal is accepted on all hands.

The term social justice was first used in 1840 by a Sicilian priest, Luigi Taparelli d'Azeglio, and given prominence by Antonio Rosmini Serbati in *La Costituzione Civile Secondo la Giustizia Sociale* in 1848. It has also enjoyed a significant audience among theorists since John Rawls book. A Theory of Justice has used it as a pseudonym of distributive justice.

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. In order to know the ends of law or realize the theory of justice, we will have to deal with law together with social, religious, moral aspects of ancient India thought and values which have a complete correspondence with Reality which is in ancient phraseology the 'Sat-Chit-Anand.' Knowledge of justice lies in truth, reason, impartial performance of judicial function, and sense of duty.

CONCLUSION

Indian juristic scene of today, we witness a strange conglomeration of ideas, which are neither western in the strict sense of the term, nor are they oriental. We are faced with a hybrid culture and consequent hybrid jurist system. Having gone through this hotchpotch of legal philosophy during all these centuries, the Indian mind is still cling though precariously to metaphysical reality, firstly because it has actually experience; the unity of existence in its spiritual experience. This has been manifested through the lives of Indian seers and sages who obliterated the distinction between subject and object. Secondly, in India, unlike as in the west metaphysical principles have not been exploited to suit political ideologies of revolution or despotism. Naturally we are not yet

scared of these principles. Thirdly, the popularity and progress of science, which has resulted in almost a craze for material advancement in the west, has not been able to solve all the problems of life because of the sole emphasis on exploration of matter. This is an ample and irrefutable testimony of the indispensability and inseparability of spiritual aspect of law from the general theory of law. The truth of the above statement was completely appreciated and realized by the ancients and the general happiness and peace which reigned in those times is an eloquent testimony of it. In Judicial Court proceedings the theory of justice, to a great extent, has been a movement of protest against the law's delays, against arbitrary application of law, and against the inequality of the laws themselves.

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