

CHAPTER - 1
INTRODUCTION OF SOCIAL
JUSTICE

CHAPTER- I

INTRODUCTION OF SOCIAL JUSTICE

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I. INTRODUCTION OF SOCIAL JUSTICE

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 Idea of welfare state is that the claims of social Justice must be treated as cardinal and paramount. Social Justice is not a blind concept. It seeks to do Justice to all the citizen of the state. Social Justice must be achieved by adopting necessary and reasonable measures. That shortly stated, is the concept of Social Justice and Its implications. Thus the term Social Justice is a blanket Term so as to include both Social Justice and Economic Justice.¹

The Concept of Social Justice is Replete with multifarious connotations. It is equated with a welfare state. It is considered to be analogous to an egalitarian society. It is treated to be an incident of the Rule of Law. It is co-extensive with Social welfare. Because Social Justice is supposed to dwell mainly in the abolition of all sorts of inequalities which are the concomitants of all sorts of inequalities of wealth and opportunity, race, caste, religion, distinction and title. The Declaration of American Independence 1776 discovered it into the man inalienable rights of equality life and liberty. The French Declaration of

¹ Anshuman Gupta "The Concept of Social Justice and the Poor 2006 P 5. – Legal Service India.com.

Rights of man 1789 discovered it into the natural imprescriptibly and inalienable rights of man. Such Rights are regarded to be natural because all men are equally endowed with rights by equal war.²

Democratic Socialism aims to end poverty ignorance, disease and inequality of opportunity. Socialistic concept of society should be implemented in the True spirit of the constitution thus the principal aim of socialism is to eliminate inequality of income status ,and standards of life, and to provide a decent standard of life to the working people.³

1. THE CONCEPT OF SOCIAL JUSTICE

The concept of social-economic Justice is a living concept and gives substance to the rule of law and meaning and significance to the ideal of a welfare State. The Indian constitution is an illustration of the forces at work in socio-economic Jurisprudence. It sets out the Directive principles of State Policy fundamental to the governance of the country and spells out a social order in which Justice, Social, economic and political, shall inform all the Institutions of National life.⁴

Social Justice takes within its sweep the objective of removing all inequalities and affording equal opportunities to all citizens in social affairs as well as economic activities. The term "Justice without doubt means Justice to the deprived and weaker sections of society bringing an

² . R.G.Chaturvadi "Natural and Social Justice " Second Edition 1975 Law book Company Allahabad. p. 469.

³ Dr. mayuri pandya 'social justice a; Dream or realty' AIR 2009 May Journal p.79 p.2

⁴ S. K.K .Gupta 'minimum Bonus –A search for social justice ILLI 1983. Journal vol .25 p. 390

egalitarian order under which opportunities are afforded to the weaker sections of society.⁵

2. Social Justice in Civil Society:

By Rousseau of the Original Civil Society where the difference and disparities, in course of time, became so gruesome that a demand for Social Justice was a natural outcry of mankind in general. In the platitude of philosophers, man is described as a social animal. When the civil society developed into an administrative unit, the rules of conduct acquired a political sanction and a Breach of them was made to culpable through the legislative sanctions.⁶

3. Social Justice under the Constitution of India:

A picture of the constitution will give us the right perspective for appreciation of the scope and place of Social Justice as an aspiration of the Nation The former chief Justice of India, P.N. Bhagwati Inter-alia observed: "Today a vast social revolution is taking place in the judicial process, the law is fast changing and the problems of the poor are coming to the forefront. The Court has to innovate new methods and device new strategies for providing access to justice to large masses of the people

⁵ Punjab National bank v. Gulam Dastagir AIR 1978 SC 481.

⁶ R.G.Chaturvadi "Natural and Social Justice " Second Edition 1975 Law book Company Allahabad. p.455

who are denied their basic human rights and to whom freedom and liberty has no meaning.⁷

Mr. Justice K. Ramaswamy has expounded the concept of social justice **In Consumer Education Research Centre v. Union of India**⁸ and observed:

The Preamble and Article. 38 of the Constitution of India are the supreme law envisages social justice as its arch to ensure life to be meaningful and livable with human dignity. The concept of social justice which the Constitution of India engrafted, concept of diverse principles essential for orderly growth and development of personality of every citizen. Social justice' is thus an integral part of justice in a generic sense. Justice is genus, of which social justice is one of its species. Social justice is a dynamic device to mitigate the sufferings of the poor, weak Dalits, tribal's and deprived sections of the society and to elevate them to the level of equality to live a life of dignity of person. Social justice is an essential part of complex of social change to relieve poor etc. from handicaps, and to make their life livable for greater good of the society at large.

⁷ S.P. Gupta v. Union of India AIR 1982 SC 49 C189.

⁸ AIR 1995 SC 929 (938).

4. Origin of Social Justice and Jurisprudence:

The greatest Contribution of Ehrlich to Sociological School of Jurisprudence lies in scientific approach to Study of Law in its Social Context and his emphasis on relation between law and the life of the Society. **His theory of living law** came as a vigorous reaction against the analytical positivism. Ehrlich focused his attention on the Social function of Law. The purpose of Law according to him was attainment of Social Justice.⁹

5. Sociological approach of social justice: According to

Roscoe pound "Sociological Approach should ensure that making Interpretation and application of Laws take account of Social facts".

- (i) To achieve this target there should be a factual study of the social effects of legal administration.
- (ii) Social Investigation as preliminaries to legislation.

Pound regards law as a means of social engineering. Pound classification of social interest as under:

Social Interests which include -

- i. General Health
- ii. Peace and order
- iii. Freedom to form political, economic or religious institution.

⁹ Allen C.k, law in the making (1964) p28.

iv. Conservation of Human Resource.¹⁰

6. Position of Social Justice Pre Independence of India:

- (i) The position of Social Justice in ancient time.
- (ii) The position of Social Justice in medieval time.
- (iii) The position of Social Justice in modern time.

A. The position of Social Justice in ancient time:

For an appraisal of the Sociological Jurisprudence in Its Indian perspective. It would be necessary to survey the present as well as the pre independence Indian Law. The Law during the British colonial rule In India was coercive suppressive and Insensitive to the sentiments and needs of the Indian people. The British rulers paralyzed the peace and prosperity of Indian by dividing Indians on the basis of caste creed, religion, language and occupation so as to conflicts between different communities to meets their selfish ends.¹¹

1. Jajmani System: is an exploitative System:

Jajmani System is a system of Traditional occupational obligations.

Castes in early India were economically Interdependent on one another.

Thus Jajmani system as a system governed by Relationship based on reciprocity in Inter caste relations villages. Is Jajmani system an exploitative system? Do Jajmans exploit the Kamin's, by them meager

¹⁰. N. Karia "Law, Social Justice and social Changes. ; AIR 2001 June journal p.189

¹¹ V.N .Pranjpe " jurisprudence and legal theory " six edition 2002 p.67

amount of food grains or a small amount of cash or in other some manner? In this system Jajman was exploiter and the Kamin exploited.¹²

Beidleman: Believes the Jajmani System to be of the Chief Instruments of coercion, control and legitimating wielded by high caste landowning Hindus. Similarly, **Lewis and Barnoww – 1956** – are the opinion that the vast difference in power between the rich and the influential Jajmans and the poor and landless & kamins – leads to the exploitation of Kamins and coercing them into sustaining the power of those who have the higher rank and the upper hand.

Norms and Values: The traditional method of payments almost in all religions in the country is that it is made at harvest time when each landowning farmer family hands over a some newly produced food grains to various Kamins; however, these harvest payments are only part of what the Kamin family receives. The kamin may be dependent on the Jajmani for his house site for places where animals may graze, for wood and cow dung fuel, for loan of tools, In addition, the Jajman may give him clothes and gifts on ceremonial occasion and may also help him with loans of money in emergencies. ¹³

¹² Wisner William H. ' The Hindu jajmani system, Luck now publishing house Lucknow.1936

¹³ Beidleman Thomas o- "A comparative – analysis of the Jajmani system monograph for the association for Asian studies new year's 1950.p328.

ii. Caste Society and Social Justice:

Caste is the social concept patent of India. Deep-rooted and wide-spread it divides society vertically and horizontally into several Castes. Caste system was described by sociologists as a major social evil in India. Wherever no human child is born with any religious and Caste characteristics, these are put into the minds of children subsequent to their birth by elders. The Caste system is generally accepted as one of the most complexly stratified of all the social systems on the earth and it is the most striking feature of the Indian society. In fact, it cuts across the religious boundaries and encompasses the rest of the religious communities in some measure in India. As he further says, "Every Hindu is born into a Caste and his Caste determines his religious, social, economic and domestic life from the cradle to the grave."The Caste system is a complicated one, both theoretically and practically, it is an institution that portends tremendous consequences for all concerned. It is a national problem capable of wide social tension; for as long as Caste in India does exist, the Hindus will hardly inter-marry or have any social intercourse with outsiders; and if Caste-minded Hindus migrate to other regions on the earth, the Indian Caste would become a world problem.¹⁴

¹⁴ S.V.Ketkar, "History of Caste in India (ed. 1st 1954 Jaipur) p. 4 Quoted by Dr. Ambedkar in his paper Castes, in India - Their Genesis, Mechanism and Development (1916) p. 3

Dr. Ambedkar was of a firm view that unless Indian Suppressed Classes do not get political power, nobody can ameliorate their miserable condition, therefore, he advocated for proportionate representation in the formation of Government at Centre and State level. Article 330 to 342 provided for special provisions relating to Depressed Classes. Reservation of seats for Scheduled Castes and Scheduled Tribes in Lok Sabha and State Assemblies and also been made under the Constitution. According to Article 325 there shall be one general electoral roll and no person is ineligible for inclusion in it on grounds only of religion, race Caste, etc. Article 340, however, empowers the President to appoint a commission to investigate conditions of socially and educationally Backward Classes. Dr. Ambedkar believed that the establishment of a real democratic society in India would be possible only when Untouchables and other weaker sections of society would be given the equal opportunity to enjoy the basic Human Right. He had not only wanted political democracy but also thought necessary the establishment of social democracy in India. He made it clear that he social democracy to which India is wedded envisages a way of life and demands social and political environment by which ever individual has a right and opportunity to bring about the development of his ideas, his personality

and aptitude, consistent with similar right and opportunity vested in others.¹⁵

Some of the prohibitions propounded against the exterior castes were:

- ❖ That the Adi-Dravidas shall not wear ornaments of gold and silver.
- ❖ That the males shall not be allowed to wear clothes below their knee or above the hips.

That the males shall not wear coats or shirts or *banyans*' (vests).

- ❖ That their women shall not be allowed to cover the upper portion of the bodies.
- ❖ That their women shall not be allowed to use flowers or saffron paste (*mehandi*).
- ❖ Those men shall not use umbrellas for protection against the sun and rain, nor shall they wear sandals.¹⁶

3. Crimes against Scheduled Castes:

The reports of the National Commission on Scheduled Castes and Scheduled Tribes have been regularly reporting an increase in the number of crimes against the Scheduled Castes. Most of the S.C women are the victims of rape by upper caste men. The S.C men on the other hand are exploited by usurping their lands, giving them low wages, and using them as bonded labour. For checking this exploitation, a set of comprehensive guidelines covering preventive

¹⁵ Dr, B, R Amedkar 'the untouchables ; Amrit book co. New Delhi 1948 p.104

¹⁶ Vijay Kumar ;human rights, poverty and depressed class.vol 25 2004 05 06 p 10

measures have been formulated and communicated by the Central Government to the state for necessary action.¹⁷

A new era social Justice and equality still remains a dream to be achieved. The benefits of development have been appropriated by about 20 percent of the population at the top. It has emerged as the ruling class of the country. By accepting the reservation policy, the government will only be working for the establishment of a new social order that would secure to the underprivileged sectors of our society justice in social relations and equality of opportunity to rise in social scale.¹⁸

B. Position of social justice in medieval time:

In 1564 Akbar abolished *Jizya* and began to charge uniform trade tax from all, This tax was particularly hated by the Hindus as it was a symbol of their inferiority and involved quite a lot of humiliation. The abolition of *Jizya* tax meant that both the Hindus and Muslims came to be considered as equal citizens of the state. The offices of the state were open to all on merit and without distinction of caste and religion. Akbar noticed many social evils prevailing in the society for which both the Hindus and Muslims were responsible. He now embarked upon social reforms which touched both the communities. He discouraged child marriage and encouraged widow remarriage among the Hindus. He put a

¹⁷ S.C Ray choudhary; social, cultural and economic History of India; 2000 surjeet publications.p.12

¹⁸ A.R.Desai ; social Background of Indian nationalism ;six edition 2000 popular prakshan p30

check on infanticide and prohibited the custom of *sati*. When he sensed opposition from the orthodox Hindus, he ordered that no widow should be burnt alive against her wishes, for which her declaration for voluntarily committing *sati* certified by the State official had to be obtained. In 1562, he stopped the practice of converting the prisoners of war to Islam. He also abolished slave trade.¹⁹

At the very approach of Islam, we repeat, the Hindu society fell on the defense and greater restrictions on social observances came to be imposed. The violations of these restrictions were met with severe punishments. This affected the status and position of Hindu women. The birth of a girl was dreaded and the daughter was regarded as the root of all misery and the source of unending trouble by the average householder. Some uncultured sections of the society practiced female infanticide.²⁰

The status and position of Muslim women were in no way better when compared to their Hindu counterparts. In general, the Turks gave their women a good measure of freedom. On the other hand, the Persian women were improving their position as compared with their Indian sisters. In India, However, the Muslims followed the older traditions of ancient Persians, which gave women an inferior position. Islam, though a democratic religion, in practice treated women as second class citizens. A

¹⁹ H.V Srinivas murty ; History of India '2nd edition 1985 .p248.

²⁰ . H.V. Sreenivas "Status and Position of women ; 1st edition 1980 p.250

Sunni Muslim was permitted to have four wives at a time while a Shia Muslim had the liberty to have even more wives than four. The Muslim women had to observe *pardah* more strictly. A poorer or non-aristocratic women went about 'wrapped up in long garments covering the heads' or what is now known as *burqa*. Women could hold, hardly gave any advantage to women, as she was denied maintenance allowance. There were no proper facilities for women education and few had any education. In consequence Muslim women were unable to exercise whatever the rights that were allowed to them by Muslim Law. Therefore, the status and position of Muslim women was deplorable as their Hindu sisters ²¹

Social justice legislation during British period:

A large number of Acts were passed related to the issues viz., abolition of slavery, prevention of exploitation of women and children labour relation and agrarian reforms and humanization of intuition of marriage etc. during this period. While making these Acts, the British adhered to a "cautions approach", because they do not want to hurt the sentiments of Indian people. Apparently, they did not seek public consent on the issues that were likely to give shock to the public conscience. This 'cautions approach' of the Britishers can be seen in the case of the Obnoxious Practice of Sati. Although, this Sati-Pratha shocked the Britishers they did not take definite stand on the issue until it was supported by educated section of the Indian population and discussed at various public. Once the public opinion was generated in the favour of its abolition, the Sati prohibitions

²¹ H.V .Srieeenivas Murthy "History of India "part 1 1985 p. 254 eastern book company Luck now

were made statutory "In a decade, between 1910-20, the Indian members moved bills related to elementary education, validation of Muslim Wakf, protection of women and children, Indian indentured labour, validation of certain Hindu marriages, protection to minor females, special marriages, etc.²²

The British Empire, for the first time established supreme authority of law, created by sovereign legislative body, in social matters. This ensured uniformity in law and social order and the certainty that the same norms were followed throughout the country. Though the enactment of such laws applicable throughout the British Territory also helped them to consolidate the British Empire, but ultimately India get benefited in several ways. Since, the alien rulers had no interest in social change, it may be admitted that the fruits of the 19th century liberalism, particularly in the field of individual dignity, came to be made available, at least in some measure to Indian society during the British rule.²³

C. Position of social justice in modern time:

There are several ways and means to attempt change in social values and modes of social behaviors. Bringing about social reform through legislations is an important tool to deliver social justice to a significant extent to needy and weaker sections of the society. The Indian social

²² Social legislation, Encyclopedia of social work In India, vol. 2 The planning commission, GOI 1968 p 255

²³ Anuradha Sharma and Shardas Prasad "Social legislation, Social Justice and Society Unfolding the Genesis of issue p. Vol. No. XXVIII Sept. to Dec. 2006. p. 3

reformers belonging to nineteenth and early twentieth century's seem to have given great deal of importance to social legislation for this purpose. Legislations pertaining to the weaker sections, especially women viz., *Sati Pratha*, the amendments to Hindu Marriage & Family laws, Labour Laws, Dowry, Child Marriage Act, the Acts protecting the interests of handicapped, minorities and powerless groups; reform relating to social evils like beggars, begging, prostitutions and social security were enacted with the hope that these laws would attempt to abolish social evils or facilitate in bringing about the desired social change. Indian Constitution makers and the Parliament have also shown immense faith in legislation to bring about change in the society. The Constitution of India declared that untouchability stood abolished. Later when it was found the mere declaration was insufficient, the parliament passed the untouchability Offences Act in 1955. .²⁴

Social Justice is considered as a basic need and concern of human societies. It forms a part of broader concept of justice in general. The **Oxford Dictionary observes**, "Justice as just conduct of fairness. It means all forms of rightful action". The idea and principle of social justice is based on treating every individual equally and giving each his due. Justice is, thus, opposed to inequality, injustice and deprivation. "Justice connotes moral dispensation and it is the human **ideal**". The

²⁴ The India Journal of Criminology and Criminatislics Vol. NO. 27, Issue 3. Sep.-Dec. 2006. P.3

Social Justice is "the intelligent cooperation of people in producing an organically united community so that every member has an equal and real opportunity to grow and team to live to the best of his native abilities". The concept of social justice is founded on the basic ideal of socio-economic equality and its aim is to removal of socio-economic disparities and inequalities".²⁵

7. Position of social justice Post Independence of India:

After the independence, social legislation gained a new impetus. The rule of law and the legal system were strengthened considerably. The Constitution of India became the main inspiration for making a variety of legislations.

8. Jurisprudential perspective of social justice:

With the independence of India, a new Constitution was adopted for the country embodying the social philosophy and economic values towards attainment of an egalitarian welfare State. A separate chapter on fundamental rights including individual rights and freedoms and a chapter on directive principles of State policy comprising social rights has been incorporated in the Constitution of India and the Judges have endeavored to harmonies the individual rights with the social interests of the community through their judicial decisions. The function of law is now to resolve the conflict between right of individual and the interests of the

²⁵ K.J Aikyer, judicial dictionary, thirteen Edition, Buttermorths, India, 2001,New Delhi.p.909

society. There is, therefore, no conflict between fundamental rights and directive principles of State policy as both are aimed at ushering an egalitarian society for the welfare of the nation as a whole. The legal philosophy enshrined in the Preamble and chapters on fundamental rights, directive principles, fundamental duties, provisions relating to powers and functions of the judiciary and amendment of the Constitution amply demonstrate the entire focus is on the welfare of the Indian masses and making law responsive to the social needs.²⁶The welfare legislations enacted during the post-independence era.

9. Social justice; Developments leading to the constitutional safeguards:

The quest for social justice in India began more than a century ago. When the Indian National Congress was formed in 1885 the desire of the Indians was to have the same rights and privileges enjoyed by the British citizens in the United Kingdom without any discrimination whatsoever. Between 1917 and 1919 several resolutions were passed by the Indian National Congress calling upon the British to concede civil and political rights to Indians. **In the year 1925 Mrs. Annie Besant** prepared a Bill known as "Commonwealth of India Bill" incorporating provisions for individual liberty, freedom of conscience, freedom of speech, freedom of

²⁶ M. .V Pylee , Indian constitution,' Asia publishing Bombay house 1967 p156

assembly, equality before law, non-discrimination based on sex, right to free elementary education and right to justice.²⁷

The announcement of the British Prime Minister on 13th August, 1932 providing for separate electorate to the Depressed Classes which came to be called popularly as "Communal Award" led to introspective searching among the caste Hindu leaders. Gandhi did not agree for the communal award and he went on a fast unto death. Dr. Ambedkar the leader of the Depressed Classes who earlier had strongly pleaded for a separate electorate for the Depressed Classes on the ground that they were outside the Hindu-fold, displayed remarkable statesmanship by agreeing for the abolition of communal award. The agreement between Gandhi and Ambedkar known as "Poona Pact," while doing away with separate electorate, succeeded to a large extent in securing special rights for the Depressed Classes. The Poona Pact envisaged election of a panel of four candidates by the Depressed Classes in each of the constituencies reserved for them and those candidates would be the contestants for election by the general electorate. In a conference of Hindu leaders convened in Bombay on September 25th, 1932 to ratify the Poona Pact a resolution was adopted declaring in clear terms that:"Among Hindus no one shall be regarded as an untouchable by reason of his birth, and that those who have been so regarded hitherto will have the same right as

²⁷ N.Ananta padamanbhan; caste based reservation should be given up the may 3 1994, New Delhi.)

Hindus in regard to the use of public wells, public schools, public roads and all other public institutions. This right shall have a statutory recognition at the first opportunity and shall be one of the earliest Acts of the Swaraj parliament if it has not received such recognition before that time.²⁸

The Indian National Congress at its Karachi Session held in March 1937 adopted the "Resolution on Fundamental Rights and Economic and Social Change" which highlighted the fact that:

"In order to end the exploitation of the masses political freedom must include the real economic freedom of the starving millions. The State must safeguard the interests of industrial workers by making suitable legislation providing for a living wage, healthy conditions to work and protection from the economic consequences of old age sickness and unemployment."

The Resolution also demanded protection of women and children from exploitation and conferment of special benefits on them. Key industries and services should be owned or controlled by the State was also one of the demands. Some of these ideas were borrowed from the Nehru Report of 1928. Thus the national leaders during the freedom struggle had recognized the imperative need for changing the social structure. In the words of Granville Austin: "The Karachi Resolution as it came to be called meant that the social revolution would have a vital

²⁸ Mare Galanter, *Competing Equalities, Law and the backward classes in India* 'ILI 1969 VOL.6 P. 33

share in shaping India's future Constitution and the provisions did in fact become the spiritual and in some cases the direct antecedents of the directive principles."²⁹

10. The constitutional perspective of social justice:

The framers of Constitution realized that unless unequal are treated unequally the socio-economic, political, regional and gender gaps could not be bridged. The compelling social situation led to the creation of special provisions in the Constitution for the advancement of socially and economically backward classes of citizens. The positive discrimination was thought of as a policy mechanism to realize the social goals set before the nation and as means by which the backward citizens could reach the mainstream to achieve social justice³⁰.

11. Social justice under the constitution of India:

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. Part

²⁹ Dr. Monmohan Das, constituent assembly Debates .vol.50 p.666

³⁰ K. S.Narayana " Redefining goals of positive discrimination Deccan Herald "APR 26, 1998. P.54

III of the Constitution confers certain Fundamental Rights on the citizens and Part IV enumerates certain Directive Principles as guidelines to the State for promoting the welfare of the people. The Fundamental Rights (Articles 12 to 35) assure individual freedom to the people. They focus mainly on guarantee against State action on interference. Some Articles, of course, impose limits on private action also. It ensures equality before law and equal protection laws. It further assures that there would be no discrimination against any citizen on grounds of religion, race, caste, creed, sex and place of birth. There would be no restriction or conditions with regard to access to shops, public restaurants, hotels and public entertainment or to the use of wells, tanks, bathing Ghats and places of public resort maintained by the State. There also is no discrimination on services. With the promulgation of Indian Constitution of Independent India the Untouchability has been abolished and its practice in any form is forbidden. Further, citizens of India have other rights like freedom of speech and expression, formation of association, right to acquire hold or dispose of property etc. Traffic in human beings, beggary and all forms of forced labour are prohibited. "All laws in force just before the commencement of the Constitution are declared void to the extent of their being inconsistent with the provisions of part III of the Constitution".³¹

³¹ Yogesh Atal "weaker sections; The sociological Dimensions, in a seminar on rural Development for weaker section, Bombay the Indian society for Agriculture economics" 1974,p173 179

Directive Principles are the directions for the State to make such legislation where social, economic and political justice prevails. The State is required to secure for the citizens, men and women equally, the right to an adequate means of livelihood, equal pay for equal work, protection against abuse and exploitation of workers' economic necessity. It is the duty of the State to raise the level of nutrition and the standard of living and improve public health. It shall endeavor to bring about prohibition of intoxicating drinks and of drugs that are injurious to health. In addition, the State is to promote, with special care, the educational and economic interests of the weaker sections of the people particularly the Scheduled Castes and Scheduled Tribes and protect them from social injustices and all forms of exploitations.³²

The social problem presented by the existence of a very large number of citizens who are treated as untouchables has received the special attention of the Constitution as Article 15 (1) prohibits discrimination on the grounds of religion, race, caste, sex, or place of birth. The state would be entitled to make special provisions for women and children, and for advancement of any social and educationally backward classes of citizens, or for the SCs/STs. A similar exception is provided to the principle of equality of opportunity prescribed by Article 16 (1) in as much as Article 16(4) allows the state to make provision for the

³² – M.V. Pylee "India Constitution Asia Publishing House Bombay. 1967 P .157

resolution of appointments or posts in favour of any backward class of citizens which, in the opinion of the state, is not adequately represented in the services under the state. Article 17 proclaims that untouchability has been abolished & forbids its practice in any form & it provides that the enforcement of untouchability shall be an offence punishable in accordance with law. This is the code of provisions dealing with the problem of achieving the ideal of socio-economic justice in this country which has been prescribed by the Constitution of India.³³

It is a basic feature of a written Constitution to have a bill of rights enumerating certain political and civil rights. Some constitutions make these rights justiciable, meaning enforceable through courts of law, and some other constitutions do not make them justiciable. The bill of rights incorporated in Part III of our Constitution is named Fundamental Rights. Our Constitution-makers, besides providing for a bill of rights, also incorporated in Part IV, with a futuristic outlook, certain mandatory socio-economic obligations called Directive Principles.³⁴

Our Constitution incorporates the principles of social justice in Parts III, IV, X, XVI, Schedules V & VI, besides the Preamble which declares that we are a Sovereign, Socialist, Secular Democratic Republic in which Justice, social, economic and political ; Liberty of thought, expression,

³³ The Concept of Social Justice and The poor" 2006 P.15 Legal Service India.Com.

³⁴ Granville Austin, of Cit. p. 50.

belief, faith and worship; and Equality of status and of opportunity shall be secured to all the citizens.

The relevant provisions in Part III are: Articles 14 to 16 which relate to equality clauses comprehending protective discrimination in Art. 15(4) and 16(4); Article 17 by which 'untouchability' is abolished; Article 19 which confers the six fundamental freedoms – Freedom of speech, Assembly, Association, Movement, Residence and Profession; The Indian concept of social justice includes abolition of slavery and semi-slavery. Article 23 forbids traffic in human beings and beggar and forced labour. Indeed, the constitutional embargo prohibits child labour in risky work. But these 'rights against exploitation' are brutal fulfillment because the life process of the people lags behind such legal forbiddance. The children below 14 years have been prohibited from employment in any factory mines, or in any other hazardous employment as a facet of right to protect human dignity, right against exploitation due to economic necessity and right to social justice as a scheme of protecting fundamental human rights elementary education. Article 21A was brought as a part of the constitution.³⁵

Articles 23 and 24 which relate to right against exploitation and prohibition of forced labour and employment of children in factories. Articles 25 to 28 incorporating the right to freedom of religion and Arts.

³⁵ Maharashtra Secondary Education Board v .S G.M. Gandhi Case. 1991S.C P.15

29 and 30 which protect the rights and interests of minorities. In Part IV, Articles 38 to 48 incorporate the principles for socio-economic transformation of the society. Part X deals with the administration of scheduled areas and tribal areas and the special legislative machinery in relation to that.³⁶

According to Granville Austin: the Indian Constitution is first and foremost a social document and the core of the commitment to the social revolution lays in Part III and IV in the Fundamental Rights and Directive Principles of State Policy which he described as "The conscience of the constitution." The manner in which social revolution should be brought about is contained in the 'directives' incorporated in Articles 38 to 48 of the constitution. The 'directives' cover a wide area of economic and social activity, even taking within their fold matters like free legal aid to the indigent and the need to have a uniform Civil Code. Directives like equal pay for equal work for both men and women, distribution of material resources of the community so as to sub serve the common good, right to an adequate means of livelihood, curbs on the concentration of wealth in the hands of a few, obligation by legislation to provide for a living wage, right to work, right to education and to public assistance in case of unemployment, old age, sickness and disablement, participation of workers by suitable legislation in the management of industries, provision

³⁶ Article 23,24,25,26,27,28,of the constitution of India

for free and compulsory education for children, envisage a total transformation of the society. Article 41 recognizes every citizen's right to work, to education & to public assistance in cases of unemployment, old age, sickness & disablement and in other cases of undeserved want. Article 42 stresses the importance of securing just and humane conditions of work & for maternity relief.³⁷ Article 43 holds before the working population the ideal of the living wage and Article 46 emphasizes the importance of the promotion of educational and economic interests of schedule castes, schedule tribes and other weaker sections

By Article 46, the State is enjoined to promote the educational and economic interests of Scheduled Castes, Scheduled Tribes and other weaker Sections and thus eradicate social disabilities and promote the welfare of the weak and vulnerable sections of the society. To raise the standard of living of the people, improve public health and prohibit consumption of intoxication drinks and drugs are the obligations imposed on the State by Art 47.³⁸

Part XVI comprising Articles 330 to 342 deals with special provisions relating to certain classes: Article 331, 333, 336 and 337 are special provisions relating to Anglo-Indian Community; and the rest of the provisions concern with Scheduled Caste and Tribes. Articles 330, 332

³⁷ Article 42, 43, of the Indian constitution.

³⁸ Dr. Manmohan Das Constituent Assembly, Debates Vol. P. 666.

and 334 deal with reservation of seats in Local Saba and Legislative Assemblies. The claims of the members of Scheduled Castes and Tribes for appointment to services and posts under the State are dealt by Article 335. Appointment of a Special Officer to oversee the welfare of Scheduled Castes and Tribes and Submission of periodical reports to the President of India in regard to the implementation of constitutional safeguards in favour of those communities is obligated by Article 338. Appointment of a Commission by the President to report on the administration of Scheduled areas and welfare of Scheduled Tribes is envisaged by Article 339. Appointment of a Commission by the President to investigate the conditions of the Backward Classes is contemplated by Article 340. Issue of notifications by the President specifying Scheduled Castes and Tribes is dealt by Arts 341 and 342.³⁹

12. Directive principles of state policy bring social justice:-

It is very difficult for a common and indigent man to enter the shrine of justice without first shouldering the responsibility of paying a sum towards court-fees beyond his means before law would listen to him. The existing provision for exemption from court-fee for paupers apply only to extremely poor people and is of no use to the ordinary poor litigants who may be able to pay some money but not the entire cost. It has been,

³⁹ Article 330 to 342 of the constitution of India

therefore, rightly mentioned that doors of temple of justice are open with a golden key⁴⁰. It must also be remembered that the mandate of

Of Article 38 of our Constitution, which reads as under:

"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.⁴¹

The constitution (44th amendment)act 1978 inserted a new directive principle in article 38 of the constitution provides that the shall in particular , strive to minimize inequalities in income and Endeavour to eliminate inequalities in status ,facilities and opportunities, not only among individuals but also among the group of people residing n different area or engaged in different vocations. The new clause aims at wages and eliminates inequalities in various spheres of life.

Article 39 specifically requires the state for securing economic justice:

If one compares the provisions of the 1966 Covenant on Social and Economic /Rights (ICESCR) and Part IV of our Constitution, it would be evident that the latter contains almost every one of the rights spoken of in

⁴⁰ Dr. Justice Jitendra Bhatt Right to Legal and is a Basic Human Right "2007"p – 69.

⁴¹Article 38 of the Indian constitution

the Covenant. Article 39(a) speaks of men and women equally to have the right to adequate means of livelihood.

Article 39(b) Distribution of ownership and control of the material resources of the community to the common good.

Article 39(c) to ensure the economic should not result in concentration of wealth and means of production to the common detriment.

; Article 39(d) speaks of equal pay for equal work for both men and women; Article 39(e) speaks of health and strength of workers, men and women and the measures to prevent exploitation of children.

Article 39(f) directs that children be given opportunity and facilities to develop in a healthy manner and in conditions of freedom and dignity).⁴²

Section 304 of the Code of Criminal Procedure, 1973 is a right step in the direction of providing free and competent legal aid to the accused who are unrepresented. Section 304(1) of reads as under:

"Where, in a trial before the Court of Session, the accused is not represented by a pleader, and where it appears to the Court that the accused has not sufficient means to engage a pleader, the Court shall assign a pleader for his defense at the expense of the State."⁴³

Pursuant to the provisions incorporated in Article 39A in the Constitution by 42nd Amendment in 1976, a constitutional safeguard to the right of

⁴² Article 39 of the Indian constitution

⁴³ Section 304 of the code of criminal procedure 1973.

the accused to have free and competent legal assistance has been prescribed. It reads as under:

"39A. Equal justice and free legal aid.—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 legislation 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. ⁴⁴

The concept of legal aid is rightly stated to be the spirit of equality and its movement is dedicated and devoted to the philosophy of equal justice to the indigent. Equal justice is a fair treatment within the purview of judicial process. Equal justice is, therefore, corrective of inequalities which cause social imbalance, without which justice in society cannot be propounded in reality. Equality of law and equality before law is an imperative provided in the fundamental right in the Indian Constitution. With a view to make this right a reality, for those largely depressed and deprived, down-trodden and destitute, dejected and rejected, forlorn and forgotten, lowly and lost, legal service has been a remedy, which is provided in our Constitution.⁴⁵

Article 41 mentions about the right to work, to education and to employment assistance within the limits of State's economic capacity and

⁴⁴ Article 39-A added by 42nd constitution amendment act 1976

⁴⁵ Sukdas v. Union Territory of Arunachal Pradesh 1986 Cr.L.J 1084.

development; Article 42 speaks of ensuring just and humane conditions of work and for maternity relief. Article 43 speaks of provision for living wages to all workers, leisure and social and cultural activity; Article 45 directs compulsory free education for all children under 14 years; Article 47 speaks of the duty of the State to raise the level of nutrition and standard of living of its citizens and to improve public health while Article 48A speaks of duty to protect environment, and to safeguard forests and wild life⁴⁶. Many of these directions and rights have been given legislative shape by our Parliament or State Legislatures. As a result, we have various enactments covering minimum wages, working conditions in factories, mines, etc. employees' insurance to take care of the health of employees and their families, for gratuity, bonus, hours of work and leisure, for land reform measures, employment schemes, measures to advance the interests of S.Cs. /S.Ts. and other weaker sections, financial assistance to such sections, measures for protection of women and children, and so on. It is another matter that in the matter of implementation, we are very much wanting. The Courts too have not been silent spectators. This may be open to criticism as judicial lawmaking no doubt, but the fact is that it has been made and the Parliament has not tried to undo them - as it has done in some other

⁴⁶ Article 41, 42, 43, 45, 46, 47, 48, 48a. Of the constitution of India

instances. Today, therefore, it would not be correct to say that Directive Principles are not enforceable by Courts.⁴⁷

13 .Social justice through the welfare legislation:

The welfare legislations enacted during the post-independence era. The establishment of Human Rights Commission, Women's Commission, Family Courts, Industrial tribunals, Administrative Tribunals, Ombudsman, Panchayati Raj, and Lok Adalats etc are only a few illustrations to suggest that the sole objective is to make justice available to a common man and ameliorate the sufferings of masses including women, children and other neglected and weaker sections of the society. The laws relating to consumers protection, dowry prohibition, abolition of bonded labour, control of environmental pollution etc. have been enacted to provide social justice.

- ❖ The Civil Rights Act, 1955

- ❖ The immoral Traffic (Prevention) Act, 1956

- The Probation of Offenders Act, 1958

- ❖ The Medical Termination of Pregnancy Act, 1971

- ❖ The Equal Remuneration Act, 1976

- The Family Courts Act, 1984

- ❖ The Child Labour (Prohibition & Regulation) Act, 1986

⁴⁷ – Hon'ble – Mr. Justice Shard D. due – "Human Rights and Social Justice under the Constitution "2007– p. 93-94.

The Legal Services Authorities Act, 1987

❖ The Environment (Protection) Act, 1986

Juvenile Justice (Care and Protection of Children) Act, 200

❖ The SC & ST (Prevention of Atrocities) Act, 1989

❖ The Child Marriage Restraint (Amendment) Act, 1978

The National Commission for Women Act, 1990

❖ The Public Liability Insurance Rights Act, 1991

❖ The Protection of Human Rights Act, 1993

Pre-Natal Diagnostic Techniques Act, 1994

❖ The (Extension to Scheduled Areas) Act, 1996

These socio-economic measures are meant to protect the dignity of human personality and to ensure prosperity of people as also the State.⁴⁸

13. .Role of judiciary as a dispenser of social justice:

Although the Concept of Social Justice has no definite and fixed meaning – The Supreme Court in **D.S. Nakara v. Union of India**⁴⁹ A has observed that the principal aim of socialism is to eliminate inequality of income and status and standard of life and to provide a decent standard of life to the working people. Social justice is the recognition of greater good to a larger number without deprivation or accrual of legal rights of anybody. If such a thing can be done, then social justice must prevail over

⁴⁸ Keshavanand Bharti v. State of India AIR, 1973 SC 14.

⁴⁹ AIR 1983 S.C 130

any technical rule. The expression 'social and economic justice' involves the concept of 'distributive justice', which can notes the removal of economic inequalities and rectifying the in justice resulting from dealings or transactions between the unequal in society. Social Justice, therefore, comprehends more than lessening of inequalities by differential fixation, giving debt relief or regulation of contractual relations; it also means the restoration of properties to those who have been deprived of them by unconscionable bargains; it may also take from of forced redistribution of wealth as a means of achieving a fair division of material resources among the member of the society. The ideal of economic justice is to make equality of status meaningful and life worth living at its best removing inequality of opportunity and of status – social, economic and political. Social justice would also include legal justice, which means that the system of administration of justice must provide a cheap, expeditious and effective instrument for realization of justice by all sections of the people irrespective of their social or economic position or their financial resources.⁵⁰ .

In Calcutta Electrical Construction Company Ltd, v. J.C. Bose case⁵¹,

The Supreme Court held that right to social justice is a fundamental right. In Consumer and Education Research Centre case, 3 Judges Bench

⁵⁰ Andhra Law Times Journal 2002. P-11.

⁵¹ AIR 1992 S.C 573 585

declared that the right to social justice to the worker is a fundamental right. He has a right to health and medical care as a fundamental right to live with dignity. Right to life includes better standards of life, hygienic conditions in work place and leisure.

Consumer Education and Research center v. union of India ⁵²

The preamble and Article 38 of the Constitution of India – the supreme law envisions social justice as its arch to ensure life to be meaningful and livable with human dignity. Jurisprudence is the eye of law giving an insight into the environment of which it is the expression. It relates the law to the spirit of the time and makes it richer. Law is the ultimate aim of every civilized society as a key system in a given era, to meet the needs and demands of its time. Justice, according to law, comprehends social urge and commitment. The Constitution commands justice, liberty, equality and fraternity as supreme values to usher in the egalitarian social, economic and political democracy. Social justice, equality and dignity of person are corner stone's of social democracy. The concept 'social justice' which the Constitution of India engrafted, consists of diverse principle essential for the orderly growth and development of personality of every citizen. "Social justice" is thus an integral part of "justice" in generic sense. Justice is the genus, of which social justice is one of its species. Social justice is dynamic devise to mitigate the sufferings of the poor,

⁵² AIR 1995 S.C 922

weak, Detail, Tribal's and deprived sections of the society and to elevate them to the level of equality to live a life with dignity of person. Social justice is not a simple or single idea of a society but is an essential part of complex of social change to relieve the poor etc. from handicaps, penury to ward off distress, and to make their life livable, for greater good of the society at large. In other words, the aim of social justice is to attain substantial degree of social, economic and political equality, which is the legitimate expectation. Social security, just and humane conditions of work and leisure to workman are part of his meaningful right to life and to achieve self-expression of his personality and to enjoy the life with dignity, the State should provide facilities and opportunities to them to reach at least minimum standard of health, economic security and civilized living while sharing according to the capacity, social and cultural heritage."

Air India Statutory Corporation and other v. United Labour Union⁵³

The Constitutional concern of social justice as an elastic continuous process is to accord justice to all sections of the society by providing facilities and opportunities to remove handicaps and disabilities with which the poor, the workmen etc are languishing and to secure dignity of their person. The Constitution, therefore, mandates the State to accord justice to all the members of the society in all facets of human activity.

⁵³ AIR 1997 SCC 377

Social justice and equality are complementary to each other so that both should maintain their vitality. Rule of law, therefore, is a potent instrument of social justice to bring about equality in results. It was accordingly held that right to social justice and right to health are Fundamental Rights

In Olga Telis v. Bombay Municipal Corporation ⁵⁴ popularly known as pavement dwellers case, the Supreme Court of India held that word 'life' in Art. 21 include also the right to livelihood. This judgment of Supreme Court has created awakening in the public about their rights. Thus the Apex Court extended social justice to hawkers who earned their bread loaf from hawking on pavements. In some cases Supreme Court had set aside the provisions of enactments where social justice so demanded. Abolition of bonded labour is undoubtedly an important achievement in terms of social justice. It was an urgent heed of time as otherwise all the achievements made would have proved to be meaningless in terms of protection of human rights under Article. 23(1) of the Constitution of India. Various forms of forced labour have been prohibited and its contravention has been declared to be an offence punishable under the law. The Supreme Court while considering the scope of Art.23 in the context of bonded labour observed that not only beggar rather all forms of forced labour would be prohibited under this Article as it declares illegal

⁵⁴ AIR 1885 Sc 180

any form of forced labour being violative of human dignity and contrary to basic human values. Therefore, every form of forced labour has been prohibited under Art.23 as the practice of forced labour has been condemned in almost every international instrument dealing with human rights.⁵⁵

From a theoretical perspective, the term "social justice" seems to imply testing a problem or a controversy on a broad social canvas rather than taking a microscopic view on the dispute, and come to a decision on that basis. But if the society desires that the Judges ought to dispense social justice, then it becomes inevitable that the judiciary will have to take into consideration a large number of social, and may be political factors which are not directly in issue in a dispute, and the judgments in such a case would have to be anchored on these factors. From where do the Courts derive their power or authority to embark on a social-political exercise to resolve a dispute? Do the judges, trained in law, have the technical competence, experience or expertise to properly analyze the social-political aspects pertaining to a dispute? Before this aspect is probed, it would be worthwhile to examine in what manner and so what extent the Indian judiciary has been influenced by the principles of Social Justice.⁵⁶

⁵⁵ Bandhua Mukti Morcha v. Union of India AIR 1984 SC 802.

⁵⁶ Justice Aniruddh Bose "Social Justice and the Constitution Role of Judiciary as an Interpreter of Law & Dispenser of Justice 'Maya Deep 2007 p.8.

From this brief analyses of these authorities touching upon the issue of social justice, it would become clear that it is the duty of the Courts to bring within the ambit of the decision making process the Directive Principles of specified in Part IV of the Constitution. Articles within this part mostly deal with economic, cultural and social rights and broadly fit the requirement of social justice. Judges would be failing in their constitutional duty if they ignore the concept of "Social Justice", while adjudicating on issues in which such a question is raised.⁵⁷

14. Social justice –A dream or reality:

The Apex Court has contributed a lot to achieve the goal of Social Justice. The first and foremost tool that Judiciary device is the public interest to promote The Social Justice. The courts in the Country did everything to help the poor and to break every procedural barrier to Deliver Justice to the poor. The Apex Court has recognized right to equal pay for equal work. Right to education, right to livelihood child welfare. Thus we can say that Supreme Court has played a pivotal role to make India a welfare state and to make the dream of Social Justice a reality, the Judicial Activism has proved to be a boon for the common. The Supreme Court has acted as Instrument of Social Justice and has given adequate Support to the causes of Weaker Sections of the Society. The Social

⁵⁷ Justice Aniruddh Bose "Social Justice and the Constitution Role of Judiciary as an Interpreter of Law & Dispenser of Justice 'Maya Deep 2007 p.11.

Justice is a balancing wheel between freedom, political and Economic Justice making the Survival of Democracy possible. The Judiciary Virtually enforced Directive principles through the doors of fundamental rights by the dynamic instrument of Interpretative power.⁵⁸

In Keshavanand Bharti case⁵⁹. The Supreme Court was declared that India is welfare State as basic structure in a parliamentary democracy. Further lead was taken in **Minerva- Mill's case**,⁶⁰ and the Supreme Court put on firm hold that the directive principles and fundamental rights should be harmoniously interpreted as two wheels of the chariot to establish an egalitarian social order After **Champak am Dorai Raj's case**⁶¹ (1951), Article 15(4), by Constitution, First Amendment Act, directs to make special provision for the social, economic and educational advancement of the Scheduled Castes, 'Scheduled Tribes and Backward Classes. Article 15(3) imposes positive duty of that the State to make special provision in favour of women and children to remove gender inequality and social injustice. Similarly, while Article 16(1) provides equality of opportunity to all citizens in relation to public employment, Clause (4) expressly gears positive equality by making reservation in public employment in favour of Scheduled Castes Schedule Tribes and Backward Classes who are not adequately represented in the

⁵⁸Dr. Mayuri Pandey "Social Justice: A Dream of Reality? Journal 2009, p. 19.

⁵⁹ AIR 1973 SC1461

⁶⁰ AIR 1980 SC 75

⁶¹ AIR 1951SC226

public services. Reservation in promotions with the consequential seniority was provided for the Scheduled Castes and Scheduled Tribes. Equal opportunity for higher education has been guaranteed in Article 15(4) of the Constitution. These are basic to social and economic equality of opportunity and of equality status and dignity to the weaker sections of the people in particular, the Scheduled Casts and Schedule Tribes. The State shall protect them from social injustice and all forms of exploitation. **Rangachari's case** (1962), **Thomas case** (1976) declared that reservation in Promotions is a part of equality in Article 16(1) which was reiterated in **Indira Sahwny's case**⁶² (1993) that Article 16(4) is facet of Article 16(1) itself. Social justice to Scheduled Casts and Schedule Tribes for socio-economic equality in results on par with other social group citizens has constitutionally been guaranteed to them. The protection of the minorities in Articles 29 and 30 is a facet of right to social justice and prohibition on grounds of religion outlawed by guaranteeing freedom of religion, right to practice of their choice and right to manage subject to social welfare of their institutions. From Kerala **Education Bill case (1958)** to **Mazomdar's case (2005)** is the march of law.

In State **of Karnataka** ⁶³ case, the Supreme Court held the right to water is a fundamental right, and prohibition to draw water violates the fundamental right to equality and equal dignity. Right to shelter, guaranteed in Article 19(I) (d) was declared as a fundamental right to life and Chameli Singh case further holding that the right to shelter to be

⁶² AIR 1953 SC447

⁶³ AIR 1993 SC 1126

meaningful to the Scheduled Caste and Scheduled Tribe, it is the duty of the State to construct houses to them at its cost to make the right to live in permanent settlement a meaningful right to social justice.⁶⁴

Article 21 of the Constitution protects the life and personal liberty. No person shall be deprived of his life or personal liberty except according to the procedure established by law. It is a guaranteed protection to life. Its deprivation shall be only by the procedure which in **Maneka Gandhi case**⁶⁵ declared the test of "reasonableness" **which must be "just, fair and reasonable"**. The right to life in Article 21 as was declared in Olga Tellis' case (1986) by a Constitutional Bench is not mere animal existence but it includes means, to livelihood, which was elaborated in later judgments essential needs to live with dignity. Right to livelihood was declared as a right to life, **In Kirloskar Brothers Ltd**⁶⁶.the Supreme Court declared the expression "right to life does include better standard of living condition in the work place" as fundamental right.

15. Implementation of directive principles of state policy.

Role of social policies and schemes to provide social justice.

The government has made a number of schemes and social policies.

1. National old age pension (NOAP)

2 .Mid day meals schemes (MDMS)

⁶⁴ Ahmadabad Municipal Corporation v. Nawabkhan AIR 1997. (11) SCC 121.

⁶⁵ AIR 1978 SC597

⁶⁶ AIR 1996 SCC .682

3. Annapurna yojana
- 4 National family benefit schemes. (NFBS)
5. Sampurna gramin rozgar yojana
6. Mahatma Gandhi National rural employment guarantee act 2005
(MNREGA)⁶⁷
7. Indira Gandhi awas yojana (IAY)
8. Swrn jayanti gram swarozgar yojana (SGSY)
9. Serve shikshaabhiyan
10. Right of children to free and compulsory education (2009)
11. National rural health mission 2005
12. Kanshi rams awas yojana

16. Statement of the problems:

- ❖ Why Are People Not Able To Get Work Even Though The Central Government Has Numerous Employment Generation Schemes?
- ❖ Why Are Old People, Children, Young Girls, Pregnant and Lactating Women Not Availing of Their Rights?
- ❖ Why Are Our Women and Children Weak and Malnutrition When the Government's Food Grain is Rotting, Being Stolen or Dumped into the Sea?

⁶⁷ Human Rights year Book 2006 p. 98-103.

- ❖ Why Do People Have To Go To Bed Hungry Every Night Even Though The Government Has A Responsibility To Ensure That Everyone Has right To Eat
- ❖ NREGA now new name is MNREGA has not been implemented properly in states. Accusing the states administration of inefficiency in its. Execution so the government should ensure the legal rights of 100 days of employment to those who are willing to work.
- ❖ More than 64 years after independence untouchability is alive and thriving in India, this was born out in a survey by national law school Bangalore, which was reported recently dalits are still segregated with a little access to temple water source and upper caste area.
- ❖ 86th amendment act of 2002 which made free and compulsorily education for children in the 6-14 group a fundamental right
- ❖ However education up to the age of 14 does not make one fit for gain full employment the constitution should be amended to provide free education at last till the completion of class x or xii
- ❖ Although the protection of women from domestic violence act 2005 requires the court to complete preceding within 60 days, in a majority of the cases this time line is not being met. One of the

persistent complaints of women going to the courts is the long dates being which makes litigation a different proposition,

- ❖ To reformation in the status of women, children, prisoners, poor scheduled cast and scheduled tribes OBC and minorities. So that social justice may be gain.

17. Research Methodology:

Doctrinal method has been adopted in the present work in this reference I have use the deferent provisions of Indian constitution books law journal, reports political law times. Which are related with the social justice so we can say that the social justice is the most important for the welfare state and to save the democracy in India?

18 .Scheme of the study chapter wise description:

Thus

we say that Indian constitution is a bag of borrowed from the other countries constitution such as in Chapter (ii) is related worldwide approach regarding social justice. Preamble of the constitution has been taken from the Australian constitution. Fundamental rights from the U.S.A constitution .directive principles of state policy has been adopted from the Ireland constitution article 45 directive principle of social policy .Chapter (iii) is social justice and equality under the constitution of India This provision has accepted from the U.S.A BILL of rights .social justice and equality.

Chapter (iv) is related other provisions of social justice under the constitution of India under article 19 to 32, 38 to 51 and part ix, ix a, ix b, ix c, ix d, ix e, ix f, ix g, ix h, ix i, ix j, ix k, ix l, ix m, ix n, ix o, ix p, ix q, ix r, ix s, ix t, ix u, ix v, ix w, ix x, ix y, ix z, ix aa, ix ab, ix ac, ix ad, ix ae, ix af, ix ag, ix ah, ix ai, ix aj, ix ak, ix al, ix am, ix an, ix ao, ix ap, ix aq, ix ar, ix as, ix at, ix au, ix av, ix aw, ix ax, ix ay, ix az, ix ba, ix bb, ix bc, ix bd, ix be, ix bf, ix bg, ix bh, ix bi, ix bj, ix bk, ix bl, ix bm, ix bn, ix bo, ix bp, ix bq, ix br, ix bs, ix bt, ix bu, ix bv, ix bw, ix bx, ix by, ix bz, ix ca, ix cb, ix cc, ix cd, ix ce, ix cf, ix cg, ix ch, ix ci, ix cj, ix ck, ix cl, ix cm, ix cn, ix co, ix cp, ix cq, ix cr, ix cs, ix ct, ix cu, ix cv, ix cw, ix cx, ix cy, ix cz, ix da, ix db, ix dc, ix dd, ix de, ix df, ix dg, ix dh, ix di, ix dj, ix dk, ix dl, ix dm, ix dn, ix do, ix dp, ix dq, ix dr, ix ds, ix dt, ix du, ix dv, ix dw, ix dx, ix dy, ix dz, ix ea, ix eb, ix ec, ix ed, ix ee, ix ef, ix eg, ix eh, ix ei, ix ej, ix ek, ix el, ix em, ix en, ix eo, ix ep, ix eq, ix er, ix es, ix et, ix eu, ix ev, ix ew, ix ex, ix ey, ix ez, ix fa, ix fb, ix fc, ix fd, ix fe, ix ff, ix fg, ix fh, ix fi, ix fj, ix fk, ix fl, ix fm, ix fn, ix fo, ix fp, ix fq, ix fr, ix fs, ix ft, ix fu, ix fv, ix fw, ix fx, ix fy, ix fz, ix ga, ix gb, ix gc, ix gd, ix ge, ix gf, ix gg, ix gh, ix gi, ix gj, ix gk, ix gl, ix gm, ix gn, ix go, ix gp, ix gq, ix gr, ix gs, ix gt, ix gu, ix gv, ix gw, ix gx, ix gy, ix gz, ix ha, ix hb, ix hc, ix hd, ix he, ix hf, ix hg, ix hh, ix hi, ix hj, ix hk, ix hl, ix hm, ix hn, ix ho, ix hp, ix hq, ix hr, ix hs, ix ht, ix hu, ix hv, ix hw, ix hx, ix hy, ix hz, ix ia, ix ib, ix ic, ix id, ix ie, ix if, ix ig, ix ih, ix ii, ix ij, ix ik, ix il, ix im, ix in, ix io, ix ip, ix iq, ix ir, ix is, ix it, ix iu, ix iv, ix iw, ix ix, ix iy, ix iz, ix ja, ix jb, ix jc, ix jd, ix je, ix jf, ix jg, ix jh, ix ji, ix jj, ix jk, ix jl, ix jm, ix jn, ix jo, ix jp, ix jq, ix jr, ix js, ix jt, ix ju, ix jv, ix jw, ix jx, ix jy, ix jz, ix ka, ix kb, ix kc, ix kd, ix ke, ix kf, ix kg, ix kh, ix ki, ix kj, ix kk, ix kl, ix km, ix kn, ix ko, ix kp, ix kq, ix kr, ix ks, ix kt, ix ku, ix kv, ix kw, ix kx, ix ky, ix kz, ix la, ix lb, ix lc, ix ld, ix le, ix lf, ix lg, ix lh, ix li, ix lj, ix lk, ix ll, ix lm, ix ln, ix lo, ix lp, ix lq, ix lr, ix ls, ix lt, ix lu, ix lv, ix lw, ix lx, ix ly, ix lz, ix ma, ix mb, ix mc, ix md, ix me, ix mf, ix mg, ix mh, ix mi, ix mj, ix mk, ix ml, ix mm, ix mn, ix mo, ix mp, ix mq, ix mr, ix ms, ix mt, ix mu, ix mv, ix mw, ix mx, ix my, ix mz, ix na, ix nb, ix nc, ix nd, ix ne, ix nf, ix ng, ix nh, ix ni, ix nj, ix nk, ix nl, ix nm, ix nn, ix no, ix np, ix nq, ix nr, ix ns, ix nt, ix nu, ix nv, ix nw, ix nx, ix ny, ix nz, ix oa, ix ob, ix oc, ix od, ix oe, ix of, ix og, ix oh, ix oi, ix oj, ix ok, ix ol, ix om, ix on, ix oo, ix op, ix oq, ix or, ix os, ix ot, ix ou, ix ov, ix ow, ix ox, ix oy, ix oz, ix pa, ix pb, ix pc, ix pd, ix pe, ix pf, ix pg, ix ph, ix pi, ix pj, ix pk, ix pl, ix pm, ix pn, ix po, ix pp, ix pq, ix pr, ix ps, ix pt, ix pu, ix pv, ix pw, ix px, ix py, ix pz, ix qa, ix qb, ix qc, ix qd, ix qe, ix qf, ix qg, ix qh, ix qi, ix qj, ix qk, ix ql, ix qm, ix qn, ix qo, ix qp, ix qq, ix qr, ix qs, ix qt, ix qu, ix qv, ix qw, ix qx, ix qy, ix qz, ix ra, ix rb, ix rc, ix rd, ix re, ix rf, ix rg, ix rh, ix ri, ix rj, ix rk, ix rl, ix rm, ix rn, ix ro, ix rp, ix rq, ix rr, ix rs, ix rt, ix ru, ix rv, ix rw, ix rx, ix ry, ix rz, ix sa, ix sb, ix sc, ix sd, ix se, ix sf, ix sg, ix sh, ix si, ix sj, ix sk, ix sl, ix sm, ix sn, ix so, ix sp, ix sq, ix sr, ix ss, ix st, ix su, ix sv, ix sw, ix sx, ix sy, ix sz, ix ta, ix tb, ix tc, ix td, ix te, ix tf, ix tg, ix th, ix ti, ix tj, ix tk, ix tl, ix tm, ix tn, ix to, ix tp, ix tq, ix tr, ix ts, ix tt, ix tu, ix tv, ix tw, ix tx, ix ty, ix tz, ix ua, ix ub, ix uc, ix ud, ix ue, ix uf, ix ug, ix uh, ix ui, ix uj, ix uk, ix ul, ix um, ix un, ix uo, ix up, ix uq, ix ur, ix us, ix ut, ix uu, ix uv, ix uw, ix ux, ix uy, ix uz, ix va, ix vb, ix vc, ix vd, ix ve, ix vf, ix vg, ix vh, ix vi, ix vj, ix vk, ix vl, ix vm, ix vn, ix vo, ix vp, ix vq, ix vr, ix vs, ix vt, ix vu, ix vv, ix vw, ix vx, ix vy, ix vz, ix wa, ix wb, ix wc, ix wd, ix we, ix wf, ix wg, ix wh, ix wi, ix wj, ix wk, ix wl, ix wm, ix wn, ix wo, ix wp, ix wq, ix wr, ix ws, ix wt, ix wu, ix wv, ix ww, ix wx, ix wy, ix wz, ix xa, ix xb, ix xc, ix xd, ix xe, ix xf, ix xg, ix xh, ix xi, ix xj, ix xk, ix xl, ix xm, ix xn, ix xo, ix xp, ix xq, ix xr, ix xs, ix xt, ix xu, ix xv, ix xw, ix xx, ix xy, ix xz, ix ya, ix yb, ix yc, ix yd, ix ye, ix yf, ix yg, ix yh, ix yi, ix yj, ix yk, ix yl, ix ym, ix yn, ix yo, ix yp, ix yq, ix yr, ix ys, ix yt, ix yu, ix yv, ix yw, ix yx, ix yy, ix yz, ix za, ix zb, ix zc, ix zd, ix ze, ix zf, ix zg, ix zh, ix zi, ix zj, ix zk, ix zl, ix zm, ix zn, ix zo, ix zp, ix zq, ix zr, ix zs, ix zt, ix zu, ix zv, ix zw, ix zx, ix zy, ix zz.

For the welfare of the state to save the democracy of India.

Chapter (v) Needs of social justice under the constitution of India. For example reformation in the status of women, children, poor people, scheduled castes, scheduled tribes and OBC .Minorities.

Chapter (VI) is related judicial approach regarding social justice. Such as public interest litigation, judicial activism, judicial review and Re judicial review or curative petition. For example Jessica Lal, Zahira Habibullah Sheikh, Aarushi murder case.

Chapter (vii) is conclusion and suggestions. Critical appraisal of social justice and suggestions. Such as properly implementation of laws. To abolish the corruption and must be transparency in all the schemes and yojana which is governed by central and state government.

To abolish reservation policy on the ground of socially and educationally only provide on the economical ground.