



## Social Justice and Constitution of India during Pre-independence period

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**Abstract:-** Social justice is a revolutionary concept that gives meaning and importance to life and makes the rule of law dynamic. When Indian society wants to face the challenge of socio-economic inequality with its law and with the help of the rule of law; it wants to get financial justice without any violent conflict. The idea of the welfare state is that claims of social justice should be considered as cardinal and paramount. Social Justice is not a blind concept. It wants justice with all the citizens of the state. Social justice should be obtained by adopting necessary and appropriate measures. This is soon the concept of social justice and its implications. Thus the word social justice is a blank word so that both social justice and economic justice can be included.

**Keywords: - Social justice, Constitution of India, Cast and Society**

### **Introduction**

The concept of social justice is complete with different meanings. This is similar to the welfare state. It is considered to be consistent with egalitarian society. It is considered to be an incident of rule 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. Declaration of American Independence 1776 found it equally in the unfit rights of life and liberty.

The objective of democratic socialism is to eliminate poverty, ignorance, disease and inequality of opportunity. The socialist concept of society should be implemented in the true spirit of the Constitution, thus the main purpose of socialism is to eliminate the inequality of income standards and the standards of life and to provide a decent living standard to the working people.

The Constitution of India was adopted on November 26, 1949. Some provisions of the Constitution were implemented the same day, but the remaining provisions of the Constitution



were implemented on January 26, 1950. This day has been called "date" in the constitution. It is started ", and is celebrated as Republic Day. Indian Constitution is unique in its content and spirit. Through borrowing from almost every constitution of the world, there are several key features in the Constitution of India which separates it from the formation of other countries.

Social Justice denotes the behavior of any citizen on the basis of race, color, race, religion, sex, etc., any social distinction. This means that the lack of privilege and the backward classes (SC, ST, and OBC) and women's status improvements in any particular category of society. Social Justice is the cornerstone of the Indian Constitution. Indian constitution makers knew well about the principles and principles of the various principles of justice. They wanted to find a form of justice that could fulfill the expectations of the whole revolution. Pt. Jawaharlal Nehru kept an idea before the Constituent Assembly "The first task of this meeting is to make India independent by a new constitution, through which hungry people will get complete food and cloth, and every Indian will get the best option that he can make progress himself."

Social justice was found to be useful for everyone in its type and flexible form. Although social justice has not been defined anywhere in the Constitution, but it is an ideal element of emotion which is a goal of the Constitution. The sense of social justice is a form of relative concept that is changing by people's time, circumstances, culture and ambitions. India's social inequalities expect equally solutions. Under the Indian constitution, the use of social justice has been accepted in a broad sense, in which both social and economic justice is included. According to Chief Justice Gajendragadkar "In this sense, social justice provides equal opportunity to every citizen to prevent further inequalities in the case of social and economic activities."

The Constitution of India has promised all its citizens fairly-social, economic and political; Thoughts freedom of expression, belief, faith and worship; Equality of status and opportunity; And to promote the dignity of the person and all the communities that ensure the unity of the nation. The Constitution has tried to implement certain relevant provisions keeping in view the clearly contradictory claims of socio-economic justice and personal liberty and fundamental rights.

The concept of socio-economic justice is a living concept and gives the substance to the rule of law and meaning and importance for the ideal of a welfare state. Indian Constitution is an illustration of the forces working in socio-economic jurisprudence. It determines fundamental



principles of state policy for the rule of the country and gives a social order in which justice, social, economic and political, will inform all institutions of national life. Social justice is within the objective of eliminating all its inequalities and providing equal opportunity to all citizens in economic activities as well as in social matters. The word "Doubt without justice means to bring Justice an egalitarian order to the deprived and weaker sections of society, under which opportunities are given to weaker sections of society.

### **Social Justice in Pre-independence period of India**

- A. Social Justice during ancient period
- B. Social Justice during medieval period
- C. Social Justice during modern period

#### **A. Social Justice during ancient period**

In order to evaluate sociological jurisprudence in our Indian perspective, it is necessary to survey the existing Indian independence along with the present. During British colonial rule, law in India was oppressive and insensitive to the feelings and needs of the Indian people. British rulers divided Indians on the basis of caste, religion, language and business, paralyze the peace and prosperity of India so that the struggle between different communities could be done to fulfill their selfishness.

Jajmani system is a system of traditional business obligations. Castes in early India were financially dependent on each other. In this way, the Preservation System is governed as a system which is based on reciprocity in villages having inter-ethnic relations. Is the Jajmani system an absorbent system? Have the Khojas exploited the Kamins, the amount of food grains in them or in small quantities by cash or any other way? In this system, the vendor was exploitative.

The traditional method of payment in almost all religions in the country is that it is made at the time of the harvest when every landlord gives some new produce to the Kisan Parivar, to the various Cummins; however, these crop payments are only received by the Kamin family. Kamin can be dependent on the site for his home site, where the animals can be variable, for wood and cow dung fuels, for loans of tools; besides, Jajman can give those clothes and gifts on formal occasions. And they can help with the loan of money in the emergency



Caste is the patent of India's social concept. Deep roots and widespread dispersion divides the society vertically and horizontally into many races. The caste system was described by sociologists as a major social evil in India. Wherever any human child is not born with any religious and caste characteristics, they are put into the minds of the children after their birth by elders. The caste system is generally accepted as the most complex form of all social systems on earth and stratified and it is the most special feature of Indian society. In fact, it cuts religious boundaries and incorporates other religious communities in some measures in India. As they say further, "Every Hindu is born in a caste and its caste determines from raising his religious, social, economic and domestic life to the grave." Caste system is theoretical and practically a complex. The institution which provides tremendous results for all concerned. This is a national problem which is capable of widespread social tension; unless caste exists in India, Hindus will rarely inter-marry or create any social relations with outsiders; and if caste-based Hindus go to other areas on the earth, then Indian caste will become a world problem. Dr. Ambedkar had a strong assertion that unless the Indian repugnant sections get political power, no one can calm their miserable situation, therefore, they advocate for proportional representation in the formation of government at the Center and at the state level. The provisions of section 330 to 342 are specifically related to depressed sections. Reservation of seats for Scheduled Castes and Scheduled Tribes in Lok Sabha finds State Legislatures and is also made under the Constitution. According to Article 325 there will be a general voter list and any person is only ineligible to join it on the basis of religion, caste etc. Article 340, however, gives the President the right to appoint a commission to investigate the conditions of social and educated. Dr. Ambedkar believed that the establishment of a genuine democratic society in India would be possible only if untouchables and other weaker sections of society would be given equal opportunity to enjoy original human rights. He not only wanted political democracy, but also considered the establishment of social democracy in India as necessary. He made it clear that he is a social democracy for which it has been envisaged to lead a life in India and demands a social and political environment, through which the person will always know about the development of his thoughts, his personality and abilities. Get the right and opportunity. The right and the opportunity lie in others.

### **Crimes against Scheduled Castes**



There has been a long history of torture against SC and ST in India. In India, the history of exploitation against Scheduled Castes is contained in the four-fold pattern of Sanatan Dharma, which gives legitimacy to the rights of the Kshatriyas, Brahmins and Vaishyas on the Scheduled Castes. When Aryans attacked India, they started capturing the land of local indigenous tribal people. In this way exploitation of both Shudras and tribes was engraved from that point in the Indian arena, which continued till today despite the presence of many laws. During British rule, a committee was formed to review the functioning of the Government of India Act, 1919. The committee especially tried to find out the basic reasons behind the atrocities on untouchables during the time of India. It included various parameters in the form of cultural understanding for economic reasons.

The reports of the National Commission on Scheduled Castes and Scheduled Tribes are regularly reporting the increase in the number of crimes against Scheduled Castes. Most SC women are victims of rape by high caste men. On the other hand, the exploitation of the people of S.C. is done by taking possession of their lands, giving them less wages, as bonded wages. In order to check this exploitation, a draft of comprehensive guidelines covering the preventive measures for the necessary measures has been prepared and the Central Government has been informed. A new era is still a dream to achieve social justice and equality. The benefits of development have been appropriated by around 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 work to establish a new social order which will be safe for the equality of justice and opportunity in social relations for the deprived areas of our society.

### **B. Social Justice during medieval period**

In 1564, Akbar abolished the Jizya and started collecting all business taxes, which especially hated the Hindus because it was a symbol of their inferiority and involved a lot of humiliation. The eradication of Jizya tax meant that both Hindus and Muslims were considered citizens of the state. The office of the state was open to everyone without the merit and distinction of caste and religion. Akbar saw many social evils in society, for which both Hindu and Muslim were responsible. They now adopted social reforms which touched both communities. They discouraged child marriage and encouraged widow remarriage among Hindus. He kept the social background of Indian nationalism on the infinite and restricted Sati



tradition. When he sensed the opposition of the Orthodox Hindus, he ordered that no widow should be burnt alive against her will, for which the state's official had to declare voluntarily certified Sati. In 1562, he stopped the practice of converting war prisoners into Islam. In the very perspective of Islam, we repeat, the Hindu society fell on protection and more sanctions were imposed on social supervision. The violation of these restrictions was done with serious penalties. This has affected the status and status of Hindu women. The birth of a girl was terrible and the daughter was considered to be the root cause of all the sorrows and was the source of disturbance by the average householder. Some disgruntled sections of society practiced female feticide. The situation and status of Muslim women was not better in any way compared to their Hindu counterparts. In general, the Turks gave their women a good measure of independence. On the other hand, Persian women were improving their position compared to their Indian sisters. In India, however, Muslims followed old traditions of ancient Persians, which gave women a low status.

Religion considered women as second class citizens in practice. One Sunni Muslim was allowed to have four wives at one time while one Shia Muslim had the freedom to hold more than four wives. Muslim women had to follow the curtains more strictly. The woman of a poor or aristocracy wrapped in long clothing covering the head' or now known as the burqa. Women can catch, rarely be given benefits to women, because they were denied access to maintenance allowances. There was no proper facility for women education and some did not have any education. As a result, Muslim women were unable to use the rights granted to them by Muslim law. Therefore, the situation and status of Muslim women was as bad as their Hindu sisters.

The position of women further deteriorated during the Mugal Empire. Some social scientist have described this period as the “dark age of women”. During this period a number of rigorous restrictive regulations were imposed upon women. Social evil like purdah system came into force, practice of sati became the order of the day, child marriage were popular, ban of widow marriage became the part of social life, female infanticide was practiced, lack of education and absolute social religious, property and political rights were the main reasons of inequality of sex in the every sphere of life. In spite of all this, we find several women excelled in the field of literature, education, religion and politics. Razia sultana became the only women monarch to have every ruled Delhi. The Gond queen Durgawati ruled for fifteen years, before



she lost her life in the battle with Mugal Emperor Akbar's general Asaf Khan in 1564. Chand Bibi defended Ahmadnagar against the mighty Mugal forces of Akbar in 1590. Jahangir's wife NurJehan effectively imperial power and was recognized as the real force behind the Mugal throne. Shivaji's mother Jijabai was deputed as a queen regent, because of her ability as a warrior and administrator.

Some Mugal emperor such as Akbar, Jahangir, and Aurangzeb etc tried to put an end to the evil like Sati Pratha, but it could not be suppressed. During this period the status of woman was very much lowered and women depended on male in every field of life. She lost her identity after marriage. The position of women was as a subordinate to men. There was no place in the field of politics for women. During and after the Mugal period women never acquired freedom and equality of the age of Vedic. Therefore it may be said that the status of women reached its worst position during this period at every field of life. Women status in India has not been even and the same in all the ages. It has been subject to many great changes since ancient time. In ancient time they enjoyed equal status with men. Their position got deteriorated during the Mugal period

### **Social justice legislation during British period**

During this period, a large number of Acts were passed related to the issues. Elimination of slavery, exploitation of women and children, and labor relations and agricultural reforms and humanization of marriage intuition during this period. While making these Acts, the British followed the "careful approach" because they did not want to hurt the feelings of the Indian people. Obviously, he did not take public consent on issues which were likely to shock public discretion. This warning of the British can be seen in the case of 'unpleasant practice' of Sati. However, this practice of satire shook the British, they did not take any concrete stand on this issue until it was supported by the educated class of Indian population and different people are discussed, once the public. The opinion of this is arising in favor of its abolition, then the Sati prohibition was made statically. Women and children's affection, Indian indentured labor, verification of some Hindu marriages, protection of minor women, special marriages etc. For the first time, the British Empire established the supreme authority of the law made by the sovereign legislative body. It ensured uniformity in law and social order and followed the same criteria throughout the country. Although the implementation of such laws in the entire British sector



helped them to strengthen the British Empire, but eventually India was benefited in many ways. Since foreign rulers were not interested in social change, it can be assumed that in the field of liberalism of the 19th century, especially in the area of personal dignity, to be available, at least some of the measures of Indian society in during the British rule period.

British Empire in India began in 1772. The British period marks the most important phase in the history of the emancipation of the Indian women. The British government brought drastic changes in the field of economical, social and political structure, in Indian society. During this period, dynamic changes occurred in women's social, economical, educational and political position too. Several Indian reformers, British reformers and reformist organizations raised their against the brutal practice against women and tried their best to eliminate it. Raja Ram Mohan Roy institutionalized the BrahmoSamaj in 1828 and it was his endless efforts that brought an end to Sati Pratha. He tried to remove social injustice suffered by the women. The Arya Samaj was setup by Maharishi Dayanand in 1875 and he also worked for the upliftment of women. Swami Vivekananda followed the suit and raised his voice for reforms in women's status through Rama Krishna Mission established in 1897. Ishwar Chandra Vidyasagar struggled for reform in the life of windows. The Widow Marriage Act 1856 was passed its consequence. Mohamed Ali Jinnah's efforts, on the other hand, resulted into Child Marriage Act 1929. The act laid it down that the minimum age of a girl's child for marriage should be fourteen years. The other social reformers such as Jyotiba Phulle, Keshab Chander Sen., Mahadev Ranade Maharishi Kare, Sister Nivedita, Gopal Krishna Gokhale, Rama Krishana Parma Hans and Mahatma Gandhi etc. also contributed immensely in the upliftment of women in society. A number of important laws were passed during the British Raj. These laws, aimed at reforms in women's life, were as under:-

1. Sati Prohibition Act – 1829
2. Widow Remarriage Act – 1856
3. Special Marriage Act – 1875
4. Married Women Property Act – 1874
5. Child Marriage Restraint Act – 1929





## 6. Hindu Women's Right to Property Act – 1939

The British period struggled for the upliftment of women, as is revealed by its efforts. Hence it is observed that many efforts were made during the British period to improve the status of women, yet it is a fact that all these efforts failed to evoke an equally qualitative response. The condition of women, to be honest and impartial, is more or less the same.

### **C. Social Justice during modern period**

There are many ways and means to try to change the ways in social values and social behavior. Bringing social reform through legislation is an important tool for the needy and weaker sections of society to provide social justice to a significant extent. In the beginning of the nineteenth and twentieth century, Indian social reformers have given great importance to social law for this purpose. Legislation related to weak sections, especially women, Sati practice, Hindu marriage and family law, amendment of labor Acts protecting the interests of law, dowry, child marriage act, disabled, minorities and powerless groups; Reforms related to social evils like beggars, begging, prostitution, and social security were done with the hope that these laws will endeavor to eliminate social evils or help bring about the desired social change. Indian Constitutionalist and Parliament have also shown immense faith in the law to bring about change in society. The Constitution of India declared that untouchability was over. Later, when it was found that the announcement was insufficient, the Parliament passed the Untouchability Crime Act in 1955. Social justice is considered to be the basic need and concern of human society. This is normally a part of the broad concept of justice. Social Justice "is the intelligent cooperation of people in building an organized community so that every member can get an equal and genuine opportunity to grow and team up for their native abilities. The concept of social justice is established on the basic ideal of socio-economic equality and its aim is to remove socio-economic inequalities and inequalities.

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