

### Learning Objectives

**This Social Justice chapter –  
Provides insights into**

- ❖ Several dimensions of the concept of Social Justice
- ❖ Significance of Social Justice
- ❖ The meaning and importance of distributive justice. -Impact of Social hierarchy
- ❖ John Rawls perspective of fair and just society
- ❖ Social Justice Movements in Tamil Nadu.
- ❖ The concept/political principle of Affirmative Action/Positive Discrimination.
- ❖ Caste discrimination and its consequences
- ❖ Egalitarian society
- ❖ Reservation policy and its essentiality
- ❖ Government's role in upliftment
- ❖ Privileges and its impact

### 13.1 What do you mean by Social Justice?

The negative values which are made by the society results in inequality and cleavages among people. Social power is the dominant phenomenon which leads to cut-throat competition and ends in absolute control of the subjects. It is in order to protect the social identity, the dominant communities endeavor to capture the power sector. Among different communities in a plural society, dominance of a single group is considered as unfair and unjust.

The dominant groups activate racial, religious, caste, lingual and cultural feelings and intend to misuse the social rights of other groups that may end in permanent hostility between different groups. The struggle that is undertaken by the weaker groups in order to react for establishing equal society is known to be Social Justice.



### Background of Social Hierarchy

The ancient Indian civilization had evolved with the “Varnashrama Dharma” which kick-started the principle of hierarchy i.e. Upper and Lower strata. The Varna system is also called as “Four Varna System” by which people were divided as *Brahmins*, *Kshatriyas*, *Vysyas* and *Shudras*.



Those sections who have been beyond these Varna classification were categories as scheduled castes and scheduled tribes. During the colonial period these depressed communities were classified as panchamas who were victims of untouchability. This division on the basis of birth has been inculcated and socialized along different phases of civilization from which inequalities surfaced in the society.

### Article 15 (4) of Indian Constitution

Article 29 (2) may not act as an obstacle in making special policy decisions for socially and educationally backward communities or SC/ST people.

### Article 16 (4) of Indian Constitution

This will not prevent any sort of appointment or reservation among backward communities, if sufficient representation is not provided. India is a sub-tropical, sub-continent with varied geographical atmosphere. People speak different languages and follow unique hereditary values. Albeit of these factors, inequality is existing due to the Varna System. It is in order to advance and develop the socio-economic conditions of the downtrodden communities; Indian Constitution is having its ideal guidelines with strong structural foundation.

According to Indian Constitution, States which are having low technological development or inadequate natural resources can make their own special policies for holistic advancement. In accordance with the existing constitutional provisions, the downtrodden and underprivileged communities were provided with special laws and privileges in all the states.

Ideas like all inclusive development and self-sufficient societal growth highly hinges upon social justice along with

special arrangements for the marginalized sections. Equal opportunity is the process and social arrangement by which social democracy can sustain and pluralism will be strengthened. In such a society different groups of religion, race and other factors can live with their social identity, tolerance and shared power.

Economic condition and status is one among the reason for the wedge created in the European society. Whereas in India, the division is on the basis of purusavktha of Rigveda and particularly Four Varna System. This Varna System prevents individuals from their exercise of rights and values. Indian Constitution in this regard is implementing all its supervisory mechanisms and also is delivering distributive justice which is the motto of the largest democracy. This justice intended to weed out the caste distinction (Varna System) and to establish equal society in India. The democratic values in Indian Constitution protects and delegate power to all the people equally to develop themselves in the socio-economic sectors. Sticking on with this constitutional provisions may lead to social development

#### Race, religion and lingual minorities UN proclamation – December 18, 1992.

##### Salient Features

1. All minorities are having equal right without any discrimination and intervention to exercise their freedom in following hereditary values, to cling with religion, to propagate and to use their language.
2. All minorities can make their own organization and are having every right to maintain it.
3. Minorities should have right to upgrade their knowledge related with their history, conventions, language and other hereditary values. They should also be provided with opportunity to learn about entire society to which they belong to.
4. This declaration may not affect the basic freedom which is stipulated in the existing rights declaration.



and further give place for social freedom and justice. Hence, vibrant social justice in India protects National Integration from which distributive justice and democratic values are concretized.

### 13.2 Equality is essential for Social Justice

People accept equality as an essential phenomenon but still inequality and discrimination are serving as distributing factors. Inequality prevails in almost all spheres like opportunities, comforts and working atmosphere. This kind of inequality and discrimination are permanent and unavoidable in our life, is it so? What we are going to do for the people, who do not have opportunities to work for the development of our nation? How far cultural values are responsible for this kind of inequality.

This is not only happening in India, but also at global level which creates stir in the minds of the people. It is for this reason, social equality stood in primary place in the Socio-political principles. Equality as a principle indicates what? What do you mean by “equal society”. How do we assure equality? With that assurance, what we are going to achieve? Do we try to resolve inequality only in our income? What type of equality has to be established? To whom we have to provide equality?

#### Need of special privileges

We give our voice for justice. We have to understand the reasons. If opportunity is denied along with social identity, that is absolute injustice in a society. This creates inequality among the people. Regardless

of caste, gender, religion and other differences, people should be provided with appropriate opportunities to prove their talent and capacities in the individual life. In socio-political theories, the distinction between the difference among individual and socio-cultural differences existing among them is considered as an important aspect. Individuals should receive respect and reputation on the basis of their achievements and talents. It should not be on the basis of social identities. Inequalities and discriminatory practices which prevail in the society are artificial and are known as prejudices.

### 13.3 Just Distribution

Governments can and will enact laws to facilitate the just distribution of resources to individuals within a society. Laws simply pave the way for the fair distribution of resources. Law enforcing agencies may have to monitor the process of the distribution itself.



A country like ours where socio-cultural inequalities are well entrenched, a law for fair distribution will not automatically ensure just distribution of resources. Governments will have to ensure a level playing field in order to establish Justice. In other words, before the law brings us together, people should enjoy some basic equality of life conditions



and opportunities. This attempt to create a level playing field must be seen as a necessary condition for each person to pursue his/her objectives in life. Since our constitution has abolished untouchability and other caste based discriminatory practices, both the State and the legislature would have to ensure the creation of such a level playing field. Thus, the government which swears in the name of protecting our constitution has the obligation of ensuring one of the finest promises of our constitution itself – bringing in equality to our society. Therefore, it is legal, constitutional and moral on the part of the government to create a level playing ground for all its citizens especially those who have been historically denied basic rights.

This level playing field or what we popularly call ‘equal opportunity’ must not be treated either as charity or as philanthropic gesture of the government. It is the obligation on the part of the government to treat people differently in order to ensure Justice; more importantly it is a fundamental right enshrined in the constitution for disadvantaged people to seek legal, constitutional remedy. Similarly, level playing ground is aimed at creating equal opportunity only in education and employment opportunities for the disadvantaged communities. In many realms of our everyday lives, there is virtually no demand from the marginalized sections to provide a level playing ground.

This clearly conveys the meaning of what is the aim of providing equal opportunity. When modern education

becomes the most significant resource and employment in government sector remains a major source of livelihood, the concept of level playing ground or equal opportunity was advocated and subsequently this idea became an integral part of our constitutional apparatus.

There are several opinions in this regard. How should we distribute the resources and ensure equal opportunity/fair access to education and jobs to all especially to the disadvantaged groups. Many especially people from the so called upper echelon of the society tend to think of treating people differently in order to ensure just distribution effectively amounts to discrimination. This opinion slowly and steadily invokes strong passion and at times results in violence too. The fear of losing educational and employment opportunities among the privileged communities was steadily growing as the government planned to ‘reserve’ seats for people from marginalized and underprivileged communities as part of its equal opportunity plan.

The idea of ‘merit’ would be invoked by the privileged sections of our country to argue that any attempt to ‘reserve’ seats for the underprivileged people would strongly damage merit based output of our education system; thus it would subsequently affect the professional abilities of the candidates. But as students of political theory, we must be able to dispassionately examine the issues involved in our quest to understand Justice. Do you first of all agree that some interventions are required to help the marginalized, underprivileged people? What would be the outcome if the



privileged section retains all the resources including education and employment opportunities with themselves even after we become an independent country and a republic? Should we opt for an inclusive nation or an exclusive mob? What kind of social Justice we would eventually emulate?

### DEBATE



- ❖ Do people ask the Government to provide a level playing field in sports?
- ❖ Does anyone seek similar intervention from the government in Private sectors, Armed forces?
- ❖ Does anyone demand that people must be treated differently in our criminal procedural system?

## 13.4 Distributive Justice and Retributive Justice

The substantial point of debate while studying the concept of Justice would be how the resources would be distributed to all section of the society. In order to understand this point more clearly let us dwell upon a few important perspectives on the issue of Justice. Equality of Resources, Common Ownership theories and Entitlements are often referred while discussing Justice.

### A. Equality of Resources

This perspective defines distribution of resources to be just; that is to say, if every individual has the same effective resources that amounts to Justice. If, for some given work, each person obtains the same amount of wage or reward, that is how we must realize Justice.

### B. Common Ownership Theories

These theorists argue that a fair distribution means each person in the initial stages must have the same amount of land or other valuable resources. It clearly means there are no major differences in terms of an individual's preferences and abilities. All individuals are endowed with equal amount of abilities.

### C. Entitlements Theory

It defines just distribution when land or any other resources disbursed must be historically justified. Individuals who have never had the ownership of land or other resources can appropriate it by voluntary transfer between and among themselves. Transfer of resources, for them, must be absolutely voluntary.

All these perspectives as it is evident from the brief description do focus on both resources and human ability. Resources could be for example, land as well as knowledge; human ability also plays a vital role for some theorists. There is a grand consensus that Justice in a society is possible only when it becomes distributive rather than retributive. How do we define retributive justice?

### D. Retributive Justice

The concept of retributive justice Can be understand the framework of this form of justice by following certain principles.

- i). Those who have committed wrongful acts, serious crimes do deserve harsh punishment quite proportionate to their crime.



- ii). It is morally good; when the legitimate punisher gives the culprit a stern punishment what that person deserves; no matter whether the punitive action against wrong doers is compared with others or not, the punishment is necessary as moral good.
- iii). It does not encourage punishing the innocent intentionally and also disapproves inflicting large punishments on wrongdoers disproportionately.

Even though, the idea of retributive justice played vital role in theorizing punishment and Justice for some time, some of its pivotal features such as proportionality, normative status of suffering and the ultimate justification for retribution become highly contentious.

Retributive justice as a modes operandi to establish justice was firmly rejected in our constitution itself. The architects of our constitution firmly believed that violent methods will not bring in peaceful and enduring solutions to our problems nor does it establish sustainable Justice in our society.

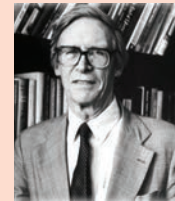
### 13.5 John Rawls Theory of Justice

John Rawls is considered as one of the finest political philosophers of 20th century. He developed the theory of Justice based on the paradigm called Justice as Fairness. His framework treats all personal attributes as being morally arbitrary; therefore Justice for him demands equality. For him 'all social values including liberty, opportunity, income, wealth, self-respect are to be distributed equally. In other words, injustice is 'simply inequalities that not to the benefit of all'. If/when any

action/attribute of an individual that does not benefit all actually signifies inequality and unfair/unjust character of a society. This perspective compels us to have a more comprehensive understanding of Justice itself.

#### Important works of John Rawls

- ❖ Theory of Justice - 1971
- ❖ Die Idee Des Politischen liberalismus - 1993
- ❖ Justice as fairness - 1985
- ❖ The law of People - 1993



The ethics of reason will create, for Rawls, a new political structure in which people will think of policies not to optimize their self interests but rather envisage society as a whole. This comprehensive and holistic perspective embedded in Rawls' framework makes it highly pertinent while debating on Justice. That is to say, it would be in the interest of all sections of the society as a whole must benefit from the policies and rules; not for an exclusive section of a society. Such fairness would be the outcome of rational action not benevolence or generosity. John Rawls theory premises upon the arrival of quintessential modern, rational beings to realize the spirit of Justice in our society; a society like ours wherein non-rational identities and sentiments play a major role in organizing the society, may have to toil to truly understand the spirit of Justice as emulated by John Rawls.

**DO YOU KNOW?**

Migrated people are also having certain rights in the alien nations. Refugees, migrated and exiled are also exercising vital rights. The member nations of UN recognized those vital rights.



### 13.6 Socio-Cultural Equality

In the diversified society, people from different groups may practice their cultural values, habitual factors and improve individual talents. For this to happen, equality in society is an essential criterion. Every individual should be assured of fair opportunity in the society. To a large extent, unequal atmosphere should be wiped out for attaining liberal society.

To put it in a nutshell, actions must be taken at least to reduce the unequal circumstances. For instance, a good healthcare, education, nutritious food stuffs, minimum emoluments are the basic needs to be provided to all without discrimination. Without these basic facilities, we may not call a society as egalitarian one.

#### What are the main issues of our Nation?

Beliefs and practices on the basis of caste and religion are dastardly obstacles. In many parts of India, the status of women is at lower level - education, employment, right to property are refused to women. If this situation extends and established as our culture, a major catastrophe may not be averted in India. If inequality and discrimination is stamped as our cultural value, the path of equality may be at cross roads and cannot be attained at all.

#### Economic Equality

Economic equality can be identified by individual's income and the value of property, he possess in a society. Otherwise, the gap between rich people community and poor may indicate the status of economic equality.

Further, by calculating number of people under poverty line, we may draw strong inferences and resolutions. This kind of identification is widespread among all the nations. But certain discriminations on the basis of culture and historical cum habitual practices, may create precarious issues in the concerned society. Radical reformers during different phases of history, has made wide awareness about these untoward and unethical happenings to the people.

"Humans respected on the basis of caste which he belongs to, is barbarian and anti-human thinking", exclaimed E.V.Ramaswamy alias Periyar in Tamilnadu. He out- rightly condemned the cultural practices, habitual follow-ups and other so called values which refutes equality in all its aspects. Periyar also was against "Patriarchal Chauvinism" which subjugated women all along the history.

That society is best which got rid of caste, religion, gender and suppressive habitual practices", lamented Periyar. Modern society cannot be sanctified by the people who cling towards the language and discriminatory cultural practices. Apart from Periyar, various saints, seers and philosophers took strenuous efforts to have egalitarian society. People who enjoyed all kind of privileges on the basis of dynasty, birth and descent so far has to come to end. Determining an individual's capacity on accordance with the birth is the primary and precarious feature of the unequal society.

All are equal and individual's capacity, if decided on the basis of merit, is the first step towards equal society. So far, number of modern nations refused to



provide voting rights for the poor people. There are nations which restricts women education and public offices in the 21st century.

In India, lower strata people are permitted to work only in the clerical and other benefit-less offices. They were not permitted to occupy higher positions, because of their caste identity. Individuals and organization for the past centuries made onerous efforts to curb out in equal menace from the society.

There some human communities which needs special attention, since they were totally ignored and exploited by the upper strata people. Truthful equality can be identified only in those rare occasions. Injustices unleashed in the past must be identified to know about what real or fair equality is.

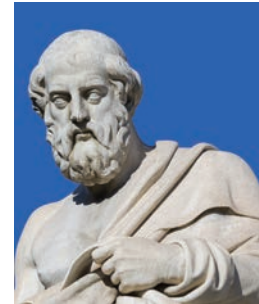
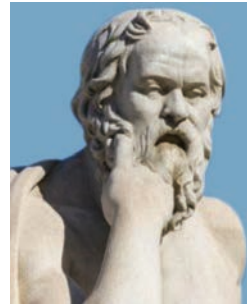
Reservation policy is a good initiative from the part of government in delivering equal justice. People, who were denied of education and employment opportunities so far, were provided with reservation for uplifting the condition and status.

Discriminatory practices which were followed for long time in the historical phases may not be curbed out in a short span. Expecting the change within one or two generations is an utopian faith, stated researchers. If reforms happened in short time, it will be a good sign for the development of the entire nation.

### **Social Justice and Equality**

All civilizations were equipped with the awareness of their practices. The accepted practices are “Dharma” and the negative is “Adharma”. Those people who

breach these practices will be punished by the king. Mistakes and related punishments are quite natural in all the countries.



Greek philosopher Plato and his disciples often debate and discuss about justice and its practices. Discourses and teachings of Socrates consists of anti-justice people and their impact in the society. Justice and fairness may do only good things in a society.

If justice do favour for certain individuals, that may not be considered and called as justice. Justice is all about the entire development and advancement of a society. Fair justice is applicable to all the people in a society, claimed Socrates. We may infer from the above said arguments that reservation is the fair justice provided to the people, who were hitherto discriminated and exploited.

### **Proportional Justice**

The social justice provided by our Indian Constitution to the depressed and downtrodden communities is a helping hand for their development and advancement. But how much and to whom are the major questions?

Caste hierarchy is the primary reason for inequality in our nation. Hence on the basis of the caste hierarchy, social justice has to be maintained/must be maintained. In categorization, we are having backward



caste, most backward caste, scheduled caste and scheduled tribe for whom, government's policies are distributed accordingly.

**DO YOU KNOW?**

First Commission for backward community was established on 1953. Kaka Kalelkar was the first head of this Commission in Independent India.

### 13.7 Discrimination-Social Basis Theory

As socio – psychologists describes, Human beings identify themselves as part of their group. They felt prestigious and energetic only when they are recognized as a part of their own group. What discrimination means is that out grouping their own members from the membership of their group or ban their members from accessing natural resources. Indeed, wealth is an important matter. Someone of the group's eligibility and self – respect indirectly defends of someone getting wealth.

Empirical studies confirm that persons with a low sense of social recognition display more out-group devaluation and group-focused enmity based on an ideology of human inequality. Negative attitudes toward different out-groups (ethnic and religious minorities, women, and people who are disabled or homeless) are strongly correlated with each other, indicating the unspecific nature of discrimination.

### 13.8 Affirmative Action

The principle of affirmative action is to promote societal equality through the preferential treatment of socially

and economically disadvantaged people. Often, these people are disadvantaged for historical reasons, such as oppression or slavery. Support for affirmative action has sought to achieve a range of goals, bridging inequalities in employment and pay, increasing access to education, enriching state, institutional, and professional leadership with the full spectrum of society, redressing apparent past wrongs, harms, or hindrances and in particular addressing the apparent social imbalance left in the wake of slavery and slave laws.

For example, a 2017 study found that affirmative action in the United States of America "there is an increase in the share of black employees over time, in 5 years after an establishment is first regulated."

### United States of America

Though there were developments in Liberty, Economy and Technology in United States of America, still there were sustained discrimination on the basis of colour till the later period of Twentieth century. This raised Civil Rights agitations there. Following this Affirmation Action was introduced by John F.Kennedy in 1960s in the United States of America. This was called as Executive Order 10925. Through this order, Govt requested the employers not to discriminate their employees or candidates on the basis of race, creed, colour, or national origin.

This order was replaced by another order 11246 in the year 1965. By this the Federal Government commit "to promote the full realization of equal employment opportunity through a positive, continuing program in each executive department



and agency". In the U.S., affirmative action's basic purpose was to pressurize institutions into compliance with the nondiscrimination mandate of the Civil Rights Act of 1964. Affirmation Action was extended to women in 1967.

### United Nations

The International Convention on the Elimination of All Forms of Racial Discrimination stipulates that affirmative action programs may be required for all countries that ratified the convention, in order to rectify systematic discrimination. It states, however, that such programs "shall in no case entail as a consequence of unequal or separate rights for different racial groups after the objectives are achieved."

The United Nations Human Rights Committee states that "the principle of equality sometimes requires State parties to take affirmative action in order to diminish or eliminate conditions which cause or help to perpetuate discrimination prohibited by the Covenant.

### Social Justice laws in South Africa

Following the transition to democracy in 1994, South Africa chose to implement affirmative action through legislations to correct previous imbalances. As such, all employers were compelled by law to employ previously disenfranchised groups (blacks, Indians, and Coloured). By this the companies employing more than 50 people have to design and implement plans to improve the workforce demographics, and report them to the Department of Labour. Employment Equity also forms part of a company's Black Economic Empowerment scorecard. Moreover, the Supreme Court has ruled that in principle blacks may be favoured.

### China

China followed some sort of affirmative action in education for minority nationalities.

### Russia

Quota systems existed in the USSR for various social groups including ethnic minorities, women and factory workers for access to university education, offices in the former Soviet union.

### New Education – New Requisites

The educational system which we had in Ancient India was discriminatory. People were permitted to undergo education on the basis of their own caste. After the introduction of new education system in modern India, the marginalized communities are not allowed in the main stream.

In south India, new or modern education was introduced by Christian missionaries of European nations. In the initial part of 19th century, British established more number of Christian missionaries in many parts of India. Many communities, who were denied educational opportunities, utilized the choice for their development.

### 13.9 Status in Madras Presidency

During the same period, Chennai presidency came under the direct rule of British Empire. Laws like 'Ryotwari' were made. Moreover, tax collecting system was introduced. Further, military forces were also instigated. In 1835, English was declared as official and administrative language in India. Indians were appointed in the British Indian military forces. Majority of the people who joined in military were non-Brahmins and deprived communities.

Although colonial British regime appointed Indians in military forces, it hesitated to permit Indian languages in the educational institutions. This untoward situation remained same until the end of the 19<sup>th</sup> century. People who are fluent in English were appointed in these services. Apart from the Europeans, Anglo- Indians and Brahmins were appointed in all government services.

Due to the establishment of 'Jaindari' and 'Ryotwari' system in the initial part of 19<sup>th</sup> century, 'Landlords', 'Zamindars' and other dominant groups spearheaded in entire India. All the above said are "Caste Hindus". "Caste Hindus" domination in all villages greatly affected the villages and particularly, the downtrodden communities were kept aside from the lands in all villages of India.



In this connection, a British officer 'Francis Ellis' was appointed to submit the status report regarding 'Ryotwari System'. In similar way, another officer, 'Thomas Munro' also submitted a report related to the 'Ryotwari System'. According to the reports, 'Lands which were tilled by lower strata people, were illegally occupied and acquired by 'Zamindars' and 'Landlords' and thus caused quality-less farming and low level of yields. It is also reported that Land Income Tax was also affected due to this acquisition. Moreover, the deprived and downtrodden communities were

checked-out of their lands and also their children denied admissions in the schools and other educational institutions.

### Preferential Rights for the Downtrodden

In 1885, Madras Presidency Government declared financial assistance policies for the downtrodden communities and also the government oriented new schools for the lower caste people.

In the meantime, Tremancu, collector of Chengalpet district submitted a report on the downtrodden communities of Chengalpet. Those excerpts are: People of downtrodden community were at low level in all aspects, particularly social-economic, educational spheres. Lands are denied for them. They were not permitted to build houses for their own. Educational opportunities were rejected. They are sold as slaves. Lots of lands are kept barren. Due to this, income for the government has been diminished. To increase the income of the government, lands can be distributed to the people.

There were so many recommendations present in the officers' report. In 1892, this report was considered and accepted by the government. Accordingly 12 lakh acres were distributed to the lower caste groups. These lands are called as "Panchami." Schools for lower caste groups are called as "Panchamer School".

"Panchamer" means people who are out of Varna System or excluded communities. 'Ayothidasa' and 'Singaravela' opined that "Panchamer Schools" can be called as "Adidraavidar" schools. Since it is the traditional name carved to the category.



In 1854, court delivered direction that there may not be any restriction to admit children who belongs to lower caste groups. The Caste Hindus and other dominant communities, however, didn't obey the judgment of the court proceedings. In 1865, Secretary of state for India in British Parliament ordered for admission of children who belong to lower caste groups but the condition remains unchanged.

British India in the end part of 19th century supported Brahmin development in all spheres, whereas minorities were denied opportunities in education, society, power and employment sectors. The Non-Brahmins, and minorities (lower caste) who studied in the modern educational institutions were dissatisfied with the government's biased stand. They demanded representation for lower caste groups in government services.



In 1891 the natives Travancore Kingdom submitted the Malayalee Memorial demanding adequate opportunities for native in employment. In 1896, 'Ezhava Memorial' demanded adequate opportunity for 'Averna' (backward communities, in employment and education. Narayana Guru took intense efforts to organize victims of caste system and instated educational institution for them. Even before such movements arose in extreme son. In 1902, Kolhapur Raja Chatrapati Sahu for the first time introduced reservation in governments

jobs for Non-Brahmins. Almost simultaneously in the Mysore kingdom the 'Miller Committee' recommended communal distribution of jobs.

Those people who demanded for appropriate representation are Ayothidasa, Singaravelar, Rettamalai Srinivasan, Pitti Theagarayar, Raja of Panagal and many others. Demands put forth by these people were accepted in 1922. Community based representation order was issued in all departments of Madras Presidency. This order is called 128(2). The order has to be implemented in all parts of Chennai Presidency, declared the government.

The efforts taken towards "education to all" in Tamilnadu also spread over to other states of India. Leaders like Jyotirao Phule, Savithribai Phule took onerous efforts in Maharastra for educating the depressed and downtrodden communities.



### Justice Party



There were more applications forwarded in 1913 to Royal Commission which was headed by Alexander Cardow. Apart from Madras Presidency, Rangoon Thravi Association and others also submitted their application with demands to the commission. All applications emphasized for appropriate



representation in employment for backward, downtrodden and religious minorities. Dr. Natesan, Pitti. Theagarayar, T. M. Nair tried to submit a report on the burning issue of the minorities and low caste groups. P. Theagarayar has written and published it as "Non-Brahmin Manifesto" in December, 1916.



In 1916, Pitti. Theagarayar, T. M. Nair and others started South Indian Liberal Federation for the welfare of the Non-Brahmin communities. A magazine "Justice" was also published by this Federation to express their thoughts and ideas. Later on, this Federation was popularly known as "Justice Party".

This movement spread out "communal representation for Non-Brahmin in education, and employment sectors. In 1915, Justice Party submitted a petition in which it condemned the domination of English and Sanskrit in higher education. Further they demanded to include Tamil and other languages in higher education.

In 1917, 54 Associations met the representative members of British empire and demanded "Fair Representation" for Non-Brahmin communities and other minorities. Moreover, "Communal Representation" was demanded during multiple conferences.

### First Communal Representation Order

During the rule of Justice Party in Chennai Presidency, the demand for communal representation reflected in vigorous manner. The prolonged struggle for communal representation by Justice Party and wide support from the people propelled the central government to make resolution in this regard in 1921. This resolution, later on was called as Communal Representation Decree.

It is the red lettered day in Indian history, lower caste groups, who were suppressed and deprived of Social and Economical condition for many centuries had fullest confidence to lead their life with self-respect and dignity by this decree.

A resolution was submitted by Munusamy the member of legislative assembly in Chennai. The Resolution reads; "Non-Brahmins with minimum educational qualification should be provided with employment opportunity. Non-Brahmins specifically, Christians, Muslims and lower caste groups to be appointed in all government services. For this, a permanent order should be legalized. If salary is above Rs.100, this order should be implemented for 7 years until it reaches 75% of the population". With regard to this resolution, R.K. Shanmugam stated that "If this historical and land mark resolution is implemented, the future generation may really appreciate our truthful efforts towards emancipation". In supporting this view, Dr. C. Natesan voiced that "If fair representation is not provided for our people, we will not pay taxes".

Periyar, E. V. Ramaswamy, a staunch supporter of congress party also eulogized the ideas of Justice Party, he expressed the

same demand in Congress Party. In 1925, during the Kanchipuram Congress Party Conference, Periyar passed a resolution regarding communal representation in education and employment. Periyar came out of congress party, since his resolution was rejected by the high command. In 1928, during the leadership of R.Muthiah, (Justice Party), Communal representation was passed and implemented in all the government departments.

### First Amendment

In the aftermath of the effective implementation of Indian Constitution, in 1951, Mr. Senbagarajan filed a suit in the High Court; related to the denial of Medical Seats. He also mentioned that, communal representation is the reason for the denial of his seat. The High Court gave its Verdict that Communal representation decree is against the constitution and to be abandoned. In addition to that, Supreme Court also sided with the same Verdict. Reservation Policy on the basis of caste was abandoned due to the Verdict.



State wide protests erupted in Tamilnadu against the Verdict. E. V. Ramasamy, demanded for an amendment in the constitution. It is due to efforts of Periyar, Tamilnadu congress committee President Kamaraj, Prime Minister Jawarharlal Nehru and Ambedkar, an amendment was made related with the extension of Reservation Policy. This was the first Amendment in the Indian

Constitution. Due to this, backward and other communities retained the opportunity of reservation.

According to articles 15 and 16 of Indian Constitution, "Socially and economically backward people can be provided with special privileges". This provision made Nehru to come with First Amendment in the Indian Constitution.

Accordingly, sub-sections 15 (4) and 16 (4) were included in the constitution. After the Amendment, from 1951 onwards Backward Communities receive 25% and Lower Caste 16% respectively due to reservation policy.

### Expansion of Reservation



Under the Chief Ministership of M.Karunanidhi, a commission was constituted under the Chairmanship of Sattanathan to take into account on the welfare of backward community. It is on the basis of the recommendations of Sattanathan commission, backward community got 31% and SC/ST received 18% as reservation in 1971.

In 1979, Social Welfare Department of Tamilnadu Government issued an order (MS No.1156, Dated 02.02.1979). According to this order, annual family income of backward community was fixed as Rs.9,000/-. Later on, that order was repealed. A new order was issued, in which reservation for backward community was increased from 31% to 50% and for SC/ST it is 18%. To sum-up, 68% reservation came into effect in Tamilnadu.



In continuum with this, in 1989, another suit filed in Supreme Court with regard to allotment of separate reservation for Scheduled tribe (ST) community. In this case, Supreme Court of India delivered the verdict by which, backward community, most backward, scheduled caste and scheduled tribes received 30%, 20%, 18% and 1% respectively. The entire reservation was changed combinedly and 69% came into effect in Tamilnadu.

### **Reservation in Central Government: Mandal Commission**

The central government under the Prime Ministership of V.P.Singh consented with the recommendations of Mandal Commission. The Government issued an order which confirmed 27% reservation for Backward Community in Central Government Services.



In opposing this order, Indira Sawhney, filed a suit stating the order breaches the constitutional provisions. She also added that reservation policy overrides the principle “All are equal before Law”. Supreme Court delivered a clear verdict that 27% for backward community in Central government services can be legalized. Further it states, “the reservation should not reach beyond 50%”.

The Supreme court of India fixed 50% as ceiling for reservation policy, whereas it was not mentioned in the constitution.

Moreover, the highest ceiling of 50% can also be discharged.

### **Thus the Judgment says**

“Although 50% is the ceiling fixed for the reservation in central government services, it may be changed, taking into account the diversified communities and abnormal situations of this nation”.

“People who are distant, those who could not mingle with the mainstream society or without opportunity, unique in culture may be exempted from this ceiling fixed by the Supreme Court. 50% of the ceiling may be exempted, said the same judges who delivered the famous verdict in this sensitive case.

That said, a member of consumer trust, K.N. Vijayan from Tamilnadu filed a suit stating, 69% reservation in Tamilnadu is given against the Supreme Court Verdict. Supreme Court, however, in its Verdict mentioned that Engineering and Medical Colleges should not be provided reservation more than 50%. It also issued Interim prohibition for the reservation.

It was similar with the untoward happenings during 1951, which prompted the state government under J.Jayalalitha who passed a bill in the state assembly by citing the reference from directive principles of state policy (Article 31(c)).



The bill on 30.12.1993 was given consent by the President of India on 19.07.1994 by which 69% reservation received fullest legal protection. To avert further filing of suit against Tamilnadu





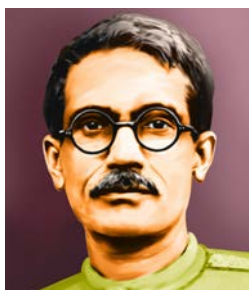
Government, it endeavored to incorporate reservation policy in IXth schedule of the Indian Constitution.

Parliament passed the 76<sup>th</sup> Amendment in which reservation policy of Tamilnadu Government was incorporated in IX<sup>th</sup> schedule of Indian Constitution. Further it came into retrospective effect from November 16, 1992.

Reservation for different communities is a temporary effort to get place in power sector. To attain social change and social ideals, caste hierarchy has to be demolished and eternal equality to be established. One among the means to attain permanent equality is “Inter-Caste Marriages”. Marriages happening within caste may further strengthen caste system and serve as an obstacle for the equal society. Casteless marriages and lateral cum ideal thinking are the best contrivances for making radical social change.

### **Backward classes Commission**

According to article 340 of Indian Constitution, President of India can appoint backward classes commission to identify socially and educationally backward groups and also to submit recommendation related to their standards and states.



Hitherto, the Indian government has constituted the backward classes commission.

### **1. Kaka Kalelkar Commission**

Kaka Kalelkar Commission was the first one constituted in 29.01.1953. There were 11 members including the Chairman Jawaharlal Nehru who tabled the report submitted by this commission in the Parliament. But the report was not adopted.

### **2. Mandal Commission**

Central Government under the Prime Minister-ship of Morarji Desai constituted Subindeswari Prasad Mandal Commission on 20.12.1978. This is the second such Commission established for the backward community. S.S.Gill was appointed as the Secretary of this Commission.

It is in order to identify the condition of backward community; a group was constituted under the leadership of B.B.Mandal in 1978. The group travelled all over the nation. This Commission on the basis of 11 basic reasons identified 3743 castes which comes under backward community. Castes were identified on the ground of peoples' status in education and society.

Mandal has written in the preface of the report which reads, “Madras is a pioneer state in communal representation. It has given representation for backward classes”. We may infer that Tamilnadu is the birth place for Social Justice and serve as a great pioneer for all other states.

52% of the backward communities in India has to be provided with 27% reservation, remarked Mandal Report. This reservation was implemented by





V.P.Singh Government on 13.08.1990 in all Government (Central) Services. Due to this order, backward communities who are backward in social and educational sectors entered into central services.

### **Promoting Social Justice**

In order to achieve social justice, it is often suggested that reservation policy is an important tool. We must realize that reservation in education and in jobs is one of the methods to achieve 'Social Justice' and not the only method. Social Justice must necessarily premise upon the idea of egalitarian philosophy that no one is inferior or superior to anyone by birth.

Those who have been benefitted extensively by the philosophy of ascriptive status (status based on birth) must realize that such status cannot be part of a modern world; to be a modern person what is more important is to have the consciousness of being equal to everybody around us. Unfortunately 'modern' is being equated with latest electronic items and luxury items we possess. Having latest gadgets will not make us modern. For India to become a modern nation, this radical transformation is required more than anything. That is why the social justice is organically embedded in the idea of modern India.



The Government of India appointed the 2nd Backward Classes Commission in 1979. It was headed by B.P.Mandal. Hence it was popularly known as Mandal Commission. It was asked to determine the criteria to identify the socially and educationally backward classes in our country and recommend steps to be taken for their advancement. One of the recommendations was that 27 per cent of government jobs be reserved for the socially and economically backward classes.

It was in December 1980 members of Mandal Commission submitted their report to Zail Singh, the then Home Minister. After submitting the report B.P.Mandal said, "I know much labour has gone into the writing of this report. But let me tell you that today we have performed its immersion (visarjan) ceremon."

Next ten years, the report lay in the Home Ministry's office. Report was dusted up by the then National Front Prime Minister Vishwanath Pratap Singh (1931 – 2008) for implementation in 1990. Mandal Commission report became the single-most burning topic of controversy and heated discussion. There was total confusion in the national political arena and V.P. Singh was accused of indulging in the worst form of opportunism. No major political party supported the implementation of Mandal Commission recommendations.

Some section of people and associations opposed to this order filed a number of cases in the court. Eleven judges of the Supreme Court heard arguments of both sides and by a majority, the Supreme Court judges in 1992 declared that this was valid. At the same time the Supreme Court asked the government to modify its original order. It said that well-to-do persons among the backward classes should be excluded from getting the benefit of reservation. Accordingly, the Department of Personnel and Training issued another Office Memorandum on September 8, 1993. The dispute thus came to an end and this policy has been followed since then.



### Indira Sawhney V. Union of India AIR 1993 SC 477

- ❖ Also known as Mandal Commission Case.
- ❖ On January, 1979 under the Chairmanship of B.P.Mandal, the second Backward Classes Commission under Article 340 was appointed by the Union Government headed by Prime Minister Morarji Desai.
- ❖ One of the major recommendation made by the commission was that, besides the SCs and STs, for other backward classes which constitute nearly 52% of the population, 27% government jobs are to be reserved so that total reservation for all, SC, ST and OBCs, amount to 50%.
- ❖ No action was taken on the basis of the Mandal Report for long after it was submitted, except that it was discussed in the Houses of Parliament twice, once in 1982 and again in 1983.
- ❖ On August 13, 1990, the V.P.Singh Government at the Centre issued an office memorandum accepting the Mandal Commission recommendation and announcing 27% reservation for the socially and educationally backward classes in vacancies in civil posts and services under the Government of India.

### Glossary



**Fraternity** - Universal brotherhood which is stipulated in the Indian constitution

**Exploitation** - Misusage of resources

**Egalitarian society** - Society without stratification

**Privileges** - Special schemes or rights for particular human communities

**Injustice** - Activities which are against the will of people

**Social identity** - An indicator which locates the people in a society

**Apartheid** - Suppression of one race by the other

**Varna system** - Divisive phenomenon in the society

**Minorities** - people who belongs to a group at less number in population

**Reservation** - Policy which helps people for upliftment

**Plural society** - Varied on the basis of culture

**Social change** - Change which creates behavioral variation

**Civil rights** - Rights provided by the government to live in a society

**Political rights** - Rights of the people in the political sector

**Economic equality** - Less cleavage between people in terms of economic condition

**Dharma** - Do's and Don'ts

**Landlordism** - Exploitation by land owners

**Deprived** - Economically and socially exploited and exhausted

**Panchamer** - people who are out of the Varna system

**Justice** - Fair distribution of authoritative allocation of values



## Evaluation



### I. Multiple Choice Questions

1. Survival of the fittest theory was coined by
  - a) Denim
  - b) Roosevelt
  - c) Darwin
  - d) All the above
2. Slave Trade means
  - a) Women trafficking
  - b) Child trafficking
  - c) Men trafficking
  - d) All
3. Apartheid regime means
  - a) One race suppressing other
  - b) Blacks suppressing whites
  - c) Torture
  - d) Affluent society
4. Narayana Guru belongs to which state?
  - a) Andhra Pradesh
  - b) West Bengal
  - c) Maharashtra
  - d) Kerala
5. "Vaikom Movement" was spearheaded by
  - a) Periyar
  - b) Rajaji
  - c) Nehru
  - d) Gandhi
6. "An inquiry into Wealth of Nations" was written by
  - a) Keynes
  - b) Adam smith
  - c) Rousseau
  - d) Bodin
7. "It is not by ballots, but by bullets" exclaimed
  - a) Castro
  - b) Mao
  - c) Netaji
  - d) Bagatsingh
8. Reservation policy is to
  - a) Upliftment
  - b) Advancement
  - c) Justice
  - d) All
9. Caste system is at high level in
  - a) Hinduism
  - b) Islam
  - c) Christianity
  - d) Zorastrianism
10. Ambedkar at the end phase converted to
  - a) Christianity
  - b) Hinduism
  - c) Buddhism
  - d) Jain
11. Just society means
  - a) No discrimination
  - b) Casteless
  - c) Religion less
  - d) All





12. Mandal Commission uplifted

- |        |       |
|--------|-------|
| a) SC  | b) ST |
| c) OBC | d) OC |

13 Assertion: Non- brahmins were appointed to government services in British India.

Reason: Communal Representation Decree was passed in the year 1921.

- (a) Both A and R are true and R is the correct explanation of A.
- (b) Both A and R are true but R is not the correct explanation of A.
- (c) A is true but R is false.
- (d) A is false but R is true.

## II. Answer the following questions very shortly

1. Society Government and Caste-Define.
2. Casteless Society-Define.
3. What do you mean by caste discrimination?
4. What is equality?
5. What is exploitation?
6. Define about caste violence.
7. Explain temple entry movement.

## III. Answer the following questions shortly

1. Write a note on Reservation policy.
2. Write about Equality in Indian constitution.
3. Give a brief account on Caste organizations.
4. Write about caste discriminatory practices in India.
5. Communal decree - Explain.
6. Explain the recommendation of Mandal Commission.

## IV. Answer the following questions in detail

1. Discuss the basic tenets of equal society.
2. Give a brief account on political ideas of Periyar.
3. Discuss about various leaders' role in equality.
4. Write a note on leadership of the modern movements.
5. Explain about new social movement.

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