
BLOCK 4 SOCIAL JUSTICE

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THE PEOPLE'S
UNIVERSITY

UNIT 13 CONCEPT OF SOCIAL JUSTICE

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13.1 OBJECTIVES

This unit would enable you to understand:

- The meaning of social justice; and
- Ambedkar's views on social justice.

13.2 INTRODUCTION

In this unit we will discuss the meaning of social justice and Ambedkar's views on social justice. Social justice is an application of distributive justice to wealth, assets, privileges and advantages within a society or a state. The essence of justice is the attainment of common good for all. Social justice involves the creation of a just and fair social order and provides justice for every member of the community. Social justice involves removing inequalities in society and affording equal opportunities to all individuals in social, economic and political affairs of society.

Indian society is divided into castes and communities, which create walls and barriers of exclusiveness within society on the basis of superiority and inferiority. Social justice in India is the product of social injustice of the caste system. Such social inequalities pose a serious threat not only to society but also to Indian democracy. Under the traditional Hindu caste hierarchy, backward communities and women have suffered for centuries because they were denied equality, education and other opportunities for advancement. Social justice in the context of Indian society provides benefits, facilities, concessions, privileges and special rights to those who were denied these for centuries. If opportunities are not given to develop their neglected talents there will remain social imbalance in Indian society.

For B. R. Ambedkar, the concept of social justice stood for liberty, equality and fraternity for all human beings. He advocated a social system based on equalization in society among individuals in all spheres of life. Being trained as a social scientist, he acquired deep knowledge in every field of human activity to become a founder of his own independent ideology. He understood social, political, religious and economic problems as associated with caste and the position of women in Indian society. His ideology and beliefs are important for social progress and stability of the Indian society.

13.3 THE MEANING OF SOCIAL JUSTICE

The concept of social justice is broader than that of justice. The word 'social' is connected with society. Its scope is wide, including social issues, problems and reforms, thereby it encompasses social and economic change. Social justice involves measures taken for the advancement of the depressed and disadvantaged classes of society. Hence it calls for social engineering which is an attempt to change society in order to deal with social problems. Such socio-economic changes can be brought through law.

Social justice aims towards creating political, economic and social democracy, ending class and caste distinctions. It combines the principles of socialism with the personal freedom granted by democracy. So the word 'social' has a wide connotation, connected with society and how it should be organised, and what should be its social values and structure.¹

The concept of justice can be defined by different perspectives. The Greek philosopher Plato saw justice as the true principle of social life. According to Ernest Barker, an English political scientist, justice was the hinge of Plato's thoughts and the text of his discourse.² Plato in his book *The Republic* discusses the concept of justice through a dialogue with friends like Cephalus, Polemarchus and Glaucon.

Cephalus says justice consists in speaking the truth and paying one's debt, while Polemarchus explains justice is in giving to each man what is proper for him. "Justice is the art which gives good to friends and evil to enemies." Glaucon argues justice is in "the interest of the weaker Thrasymachus, a sophist of ancient Greece, saw justice as the interest of the stronger, in other words, might is right.

Plato rejected all these definitions because they treated justice as something external and artificial. For Plato, justice is the primary moral value and is intrinsically linked with other essential and moral qualities.³

Another Greek philosopher, Aristotle, propounded the concept of 'distributive justice'. Aristotle's distributive justice is the name of that principle of distribution by which goods, services, honour and offices are distributed among the citizens of the state. But the principle of distribution is based upon the worth or virtue of an individual. The principle recognizes and preserves distinction between the worthy and the non-worthy. It counters equality of the unequal and ensures that a man's rights, duties and rewards correspond to his merit and social contribution. Aristotelian distributive justice is thus, another name for proportionate equality. The word 'justice' means fair treatment of people: which means law based on the principles of justice and rationality, that is, equal rights and justice for all, irrespective of class, sex, race or caste distinctions. It means that the state should deal with people correctly and completely; it should be morally fair and reasonable; and it should frame just laws and enact them justly.⁴

The word 'social justice' is formed by combining two words: social and justice. Each has a specific meaning and they convey a particular meaning when conjoined. According to John Rawls, the concept of social justice is:

all social primary goods – liberty and opportunity, income and wealth, and the basis of self-respect are to be distributed equally unless an unequal distribution of any or all of these goods is to the advantage of the least favoured.⁵

Roscoe Pound, a jurist, classifies three legally protected interests:

- public interests
- social interests and
- private interests.⁶

Justice V R Krishna Iyer, a former judge of the Supreme Court of India, says, “Social justice is not cant but conscience, not verbal borrowing from like documents but the social force of the supreme law”. Social justice is people oriented, legal justice is canalized, controlled and conferred by law.⁷

The concept of social justice is multi-dimensional and has been viewed differently by scholars of law, philosophy and political science. The term social justice is quite comprehensive and presents as the balancing wheel between the haves and the have not's. Social justice is the equitable distribution of social, material and political resources to all citizens. It seeks to remove all social, economic and political inequalities and discriminations, and affords equal opportunities to all men and women in social affairs and economic activities. Social justice is the product of social injustice; it seeks to ensure equality of status and opportunity to all. In general, it may be defined as “the right of the weak, poor, aged, destitute, children, women and other under-privileged persons in society”.

13.4 AMBEDKAR'S VIEWS ON SOCIAL JUSTICE

According to B. R. Ambedkar, social justice is a means to create an ideal or a just society. To him a just society is a casteless society, based on the principles of social justice and a combination of three components: liberty, equality and fraternity. Ambedkar's ideal society is based upon two fundamental principles.

The first is that the individual is an end in himself and that the aim and object of society is the growth of the individual and development of his personality. Society is not above the individual and if the individual has to subordinate himself to society, it is because such subordination is for his betterment and only to the extent necessary. The second essential is that the terms of associated life between members of society must be regarded by consideration founded on liberty, equality and fraternity.⁸

James Massey writes that in Ambedkar's view, a caste-based society gives no place to an individual, whereas, in Ambedkar's proposed society, individual is the final end. In a caste-based society a person's relationship with members of other classes is already fixed. But in the society envisioned by Ambedkar, relations have to be based on liberty, equality and fraternity.⁹ Besides the two essential principles, one of the most important components is 'justice', or the 'principle of justice', because for Ambedkar, “the norm or the criterion for judging right and wrong in the modern society is justice”. Justice, according to him, was “simply another name for liberty, equality and fraternity.”¹⁰

Thus the key components of Ambedkar's concept of social justice are liberty, equality and fraternity.

The first component is liberty. Ambedkar, quoting Laski, said: that for liberty to be real, it must be accompanied by certain social conditions.

Firstly, there should be social equality.

Privilege tilts the balance of social action in favour of its possessors. The more equal are the social rights of citizens, the more able they are to utilize their freedom.....If liberty is to move to its appointed end it is important that there should be equality.¹¹

Secondly, there must be economic security.

A man may be free to enter any vocation he may choose....yet if he is deprived of security in employment, he becomes a prey of mental and physical servitude incompatible with the very essence of liberty.....The perpetual fear of the morrow, its haunting sense of impending disaster, its fitful search for happiness and beauty which perpetually eludes, shows that without economic security, liberty is not worth having. Men may well be free and yet remain unable to realize the purposes of freedom.¹²

Thirdly, knowledge must be made available to all individuals. In the modern complex world, man lives at his peril and must find his way in it without losing his freedom.

There can, under these conditions, be no freedom that is worthwhile unless the mind is trained to use its freedom. The right of man to education becomes fundamental to his freedom. Deprive a man of knowledge and you will make him inevitably the slave of those more fortunate than himself.....deprivation of knowledge is a denial of the power to use liberty for great ends. An ignorant man may be free.....but he cannot employ his freedom, so as to give him assurance of happiness.¹³

So, Ambedkar believed that the three essential conditions that make liberty real were:

- social equality,
- economic equality and
- access to knowledge.

He believed that there can be no real liberty in ancient societies and under Hinduism because of the absence of these three conditions.

The second component of social justice is equality. It means all men are of the same essence, all men are equal and everyone is entitled to the same fundamental rights and to equal liberty. Ambedkar says,

The system of rank and gradation is, simply another way of enunciating the principle of inequality so that it may be truly said that Hinduism does not recognize equality.¹⁴

It is to be noted that in ancient societies there is no equality because they are based on the principle of gradation and rank. The antique society as also Hinduism lead to a degradation of human personality because of denial of social and religious equality. Ambedkar held that with social justice, equality would be the mainstay of a modern society.

The third component of social justice is fraternity. Ambedkar, talking about the importance of fraternity in a society, writes,

There are two forces prevalent in society such as Individualism and fraternity.

Individualism is ever present. Every individual is ever asking “I and my neighbors, are we all brothers, are we even fiftieth cousins, am I their keeper, why should I do right to them” and under the pressure of his own particular interests acting as though he was an end to himself, thereby developing a non-social and even an anti-social self. Fraternity is a force of opposite character. Fraternity is another name for fellow feeling. It consists in a sentiment which leads an individual to identify himself with the good of others whereby “the good of others becomes to him a thing naturally and necessarily to be attended to like any of the physical conditions of our existence.” It is because of this sentiment of fraternity that the individual does not “bring himself to think of the rest of his fellow-creatures as struggling rivals with him for the means of happiness, whom he must desire to see defeated in their object in order that he may succeed in his own.” Individualism would produce anarchy. It is only fraternity which prevents it and helps to sustain the moral order among men.¹⁵

Ambedkar believed that it is only fraternity which prevents anarchy and helps to sustain the moral order among men. Individualism produces anarchy. Without fraternity, which is a very significant component of social justice, an ideal society is inconceivable. Therefore, according to Ambedkar, the core components of social justice are liberty, equality and fraternity. Social justice means a complete change in the fundamental notions of individual life and a complete change in our outlook and attitude towards men and things.

Ambedkar was fully aware of the pattern and problems of Indian society. Hence Ambedkar’s concept of social justice included:

- unity and equality of all human beings
- equal worth of men and women
- respect for the weak and the lowly
- regard for human rights
- benevolence, mutual love, sympathy, tolerance and charity towards fellow beings
- humane treatment in all cases
- dignity of all citizens
- abolition of caste distinctions
- education and property for all and
- good will and gentleness.

He emphasized more on fraternity and emotional integration. His view on social justice was to remove man-made inequalities of all shades through law, morality and public conscience. He stood for justice for a sustainable society.¹⁶

According to Ambedkar the root cause of social injustice to the Scheduled Castes and Scheduled Tribes was the caste system in Hindu society. He observed that castes are enclosed units and it is their conspiracy with clear conscience that compels the excommunicated to make themselves into a caste. The logic of their obdurate circumstance is merciless and it is in obedience to its force that some unfortunate groups find themselves closed out with the result that now groups by a mechanical law are constantly

being converted into castes in a widening multiplicity. He further maintained that the root of untouchability was the caste system; the root of the caste system was religion; the root of the religion was attached to varnashram; the root of the varnashram was Brahminism and the root of Brahminism lies in political power.¹⁷

Ambedkar's social vision is reflected in his own words. As an economic system permitting exploitation without obligation, untouchability is not only a system of unmitigated economic exploitation, but it is also a system of uncontrolled economic exploitation. That is because there is no independent public opinion to condemn it and there is no impartial machinery of administration to restrain it, there is no check from the police or the judiciary for the simple reason that they are all Hindus, and take side of exploiters.¹⁸

B. R. Ambedkar was fully aware of the pitiable and pathetic condition and the low status of women in the Indian society. He tried to uplift women generally and Hindu women in particular. According to Ambedkar, women were treated as mere tools to bear the burdens of the family and were restricted to the role of bearing children and fulfilling duties of a wife or mother. Division of labour is not in their favour, as a result Indian women have lost their identity. They have to face discrimination on the basis of gender and because of this, equal opportunity remains a dream for them. They have to endure poverty, illiteracy, lack of health, inequality and powerlessness. Traditional attitudes regard them as physically, intellectually and socially inferior to men and subject them to male exploitation and unjustified division of labour. Such a society, where women, comprising half of the population, have a low status, came into being primarily due to the fact that women have no control over material and social resources. This is further compounded by lack of participation opportunities for women, in the decision-making process of the family.¹⁹

The concept of social justice is enshrined in the Indian Constitution. The fathers of the Indian Constitution had a dream of a new social, economic and political order, the soul of which was social justice. Ambedkar was the chief architect of the Indian Constitution. He was fully aware of the pattern and problems of the Indian society and the conflicting interests. The Constitution is a monumental example of social engineering.

Social justice is not defined in the Indian Constitution. It is a relative concept, taking in its wings the time and circumstances, the people and their backwardness, blood, sweat and tears.²⁰ The Constitution of India brings a renaissance in the concept of social justice when it weaves the trinity of the Preamble, the fundamental rights, and the directive principles of state policies. This trinity is the "the core of the commitments to the social revolution."²¹

Though social justice is not defined in the Constitution, the Preamble, the directive principles of state policy and the fundamental rights clearly illustrate the philosophy of social justice. Social justice, according to a writer is,

a relative concept taking in its wings the time and circumstances, the people, their traditions and aspirations, their turmoil and torrents, their backwardness, blood, sweat and tears.²²

Therefore, all these three sections are important for social transformation and reconstruction of the Indian society, which constitute the gist of social justice. Ambedkar argued that social justice alone could lead to social harmony, social stability and patriotic feelings of all individuals in society.

13.5 LET US SUM UP

The aim of social justice is to remove inequalities based on sex, race, caste, power, position and wealth. Ambedkar wanted to bring about social justice to all Indian citizens. According to him, social justice was based upon liberty, equality and fraternity of all human beings. Social justice brings equal distribution of social, political and economic resources and rights to all individuals.

Ambedkar dedicatedly struggled throughout his life against discrimination of untouchables and women. His ideals, philosophy and struggle for social justice are enshrined in the Indian Constitution. The Constitution clearly emphasizes the establishment of an egalitarian social order in the Preamble, Fundamental Rights and the Directive Principles. These three sections of the Constitution are based on human values of justice: social, economic and political, equality of status and opportunity, and fraternity assuring human dignity. Thus, his main objective was to uplift women and weaker sections and bring them into the mainstream of society.

13.6 QUESTIONS TO CHECK YOUR PROGRESS

- 1) What do you understand by social justice?
- 2) What are the views of B. R. Ambedkar on social justice?
- 3) According to Ambedkar, what is the importance of social justice?
- 4) Discuss Ambedkar's thoughts on social justice related to backward communities.

SUGGESTED READINGS

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- ² E. Barker. *Plato and His Predecessors*. London, 1952. p. 153.
- ³ Forsyth and Keens-Soper (eds). *A Guide to the Political Classics*. Oxford University Press, 1988. p. 25.
- ⁴ Kanta Kataria. 2015. pp. 203-204.
- ⁵ John Rawls. *Theory of Justice*. Delhi: Universal Law Pub, 2002. p. 44.
- ⁶ Friedman W. *Legal Theory*. 5th Ed. Delhi: Universal Law Pub, 2002, p. 336.

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- ⁸ Dr. Babasaheb Ambedkar. *Writings and Speeches, Vol. 3*. Mumbai: Government of Maharashtra, 1987. p. 95.
- ⁹ Mohammad Shabbir (ed). *Ambedkar on Law, Constitution and Social Justice*. Jaipur: Rawat Pub., 2005. p. 159.
- ¹⁰ Dr. Babasaheb Ambedkar. *Writings and Speeches, Vol. 3*, 1987. p. 25.
- ¹¹ Ibid. p. 39.
- ¹² Ibid. p. 39.
- ¹³ Ibid. p. 39.
- ¹⁴ Ibid. p. 25.
- ¹⁵ Ibid. p. 44.
- ¹⁶ B. R. Purohit and Sandeep Joshi. *Social Justice in India*. Jaipur: Rawat Pub, 2003. p. 189.
- ¹⁷ Mohamed Shabbir (ed). 2005. p. 309.
- ¹⁸ Ibid. p. 310.
- ¹⁹ B. R. Purohit and Sandeep Joshi. 2003. p. 209.
- ²⁰ Mohamed Shabbir (ed). 2005. p. 130.
- ²¹ Ibid. p. 131.
- ²² Ibid. p. 310.

UNIT 14 BASES OF SOCIAL JUSTICE

Structure

- 14.1 Objectives
 - 14.2 Introduction
 - 14.3 Analysing Bases of Social Justice
 - 14.3.1 Rawlsian Conception of Social Justice
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 - 14.6 Let Us Sum Up
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- Suggested Readings

14.1 OBJECTIVES

This unit would enable you to understand:

- Bases of social justice;
- Ambedkar and social justice; and
- Analysing of Ambedkar's Views on Social Justice.

14.2 INTRODUCTION

The idea of justice is usually traced back to the ancient philosophy of Plato and Aristotle. The philosophy of social justice has been produced in context of individual freedom, liberty and rights, which were largely absent in ancient and medieval societies. The modern concept of social justice is based equally on the moral and ethical principle of justice as well as the idea of human rights and principle of equality. The principles of social justice are based on the idea of justice; social justice is more comprehensive and nuanced.

14.3 ANALYSING BASES OF SOCIAL JUSTICE

14.3.1 Rawlsian Conception of Social Justice

John Rawls has been regarded as the forerunner in analysing the theory of social justice. The modern usage of the term social justice is more comprehensive in John Rawls's *A Theory of Justice* (1971) in which he considers justice as fairness that needs to be seen in terms of distributive justice. He treats justice as part of fundamental rights that are also considered natural rights. Rawls, like many other modern theorists of justice, locates distribution of justice at societal level rather than at individual level. He argues that while dispensing justice natural rights of individuals ought to be considered superior to social values prevalent in a society. He defines social justice as "the principle of rational

prudence applied to an aggregative conception of the welfare of the group” (Rawls, 1999:21).

The basic premise of distributive justice for Rawls is in the distinction between social values and natural rights. He writes:

... justice as fairness has the characteristic marks of a natural rights theory. Not only does it ground fundamental rights on natural attributes and distinguish their bases from social norms, but it assigns rights to persons by principles of equal justice, these principles having a special force against which other values cannot normally prevail. Although specific rights are not absolute, the system of equal liberties is absolute practically speaking under favorable conditions (Rawls, 1999:443).

14.3.2 David Miller on Social Justice

Similar to Rawls many other social theorists have identified different elements of social justice. Others, though broadly agreed with Rawls ‘distributive justice’, yet laid emphasis on varied bases, principles or outcomes of social justice. For example, David Miller (2003) goes beyond the principles of distributive and retributive justice. He considers social justice as more contesting and socially (making it pluralistic). Social justice depends on the context and situation (making it circumstantial). He proposes three principle of social justice:

- need in solidaristic communities
- desert in instrumental associations
- equality in citizenships

Thus social justice is determined by the mode of human relationships (Miller, 2003:26-27).

Jost and Kay’s comprehensive definition of social justice covers distributive, procedural and interactional dimensions. Social justice, according to them, is a state of affairs (either actual or ideal) in which:

- a) benefits and burdens in society are dispersed in accordance with some allocation principle (or set of principles);
- b) procedures, norms, and rules that govern political and other forms of decision making preserve the basic rights, liberties, and entitlements of individuals and groups; and
- c) human beings (and perhaps other species) are treated with dignity and respect not only by authorities but also by other relevant social actors, including fellow citizens (Jost, J. and A.C. Kay, 2010:1122).

Martin Powell, Nick Johns and Alison Green (2011:3) summarise bases of social justice according to various scholars. Social justice can be seen through various views, such as patterned, historical, processual, procedural or entitlement views. Patterned distributions are broadly based on “to each according to their x”, where x is a principle such as need, merit or desert. Patterns can be based on arithmetic equality (cutting a cake into equal slices) or proportional equality (where unequal slices are justified on some other principle). The competing principles could be the following:

- merit, desert, worth, entitlement, need (Plant et al.,1980)

- need, worth, work and merit (Titmuss, 1968);
- need, contribution to the common good and merit (Runciman, 1966; Harvey, 1973); and
- rights, desert and need (Miller, 1976).

Joe R. Feagin urges “sociologists need to rediscover their roots in a sociology committed to social justice.” He states:

... social justice requires resource equity, fairness, and respect for diversity, as well as the eradication of existing forms of social oppression. Social justice entails a redistribution of resources from those who have unjustly gained them to those who justly deserve them, and it also means creating and ensuring the processes of truly democratic participation in decision-making (Feagin, 2001:5).

Advocating for a counter system to capitalism, he observes that social justice is not only a fundamental human right but is also essential for a society to be sustainable in the long term (Feagin, 2001:11).

14.4 AMBEDKAR’S VISION OF SOCIAL JUSTICE

It is generally assumed that B.R. Ambedkar neither defined social justice the way Rawls or Miller did nor applied it in Indian context. However, his political philosophy and social doctrine invoke justice in myriad contexts – sometimes in direct and specific illustration of justice and equality and often in his worldview and political action. The same is reflected in the preamble to the Indian constitution, where justice is invoked in terms of social, economic and political which is comprehensive and unambiguous.

At the time of adaption of Indian constitution, in his last speech in Constituent Assembly debates, Ambedkar cautions that political democracy alone is not sufficient for India. India needs to be transformed into social democracy in order for it to survive as a nation. He opines that political democracy should comprise of social democracy as well. For him, social democracy means “... a way of life which recognizes liberty, equality and fraternity as the principles of life.” He further adds:

These principles of liberty, equality and fraternity are not to be treated as separate items in a trinity. They form a union of trinity in the sense that to divorce one from the other is to defeat the very purpose of democracy.

In his understanding:

Liberty cannot be divorced from equality, equality cannot be divorced from liberty. Nor can liberty and equality be divorced from fraternity. Without equality, liberty would produce the supremacy of the few over the many. Equality without liberty would kill individual initiative. Without fraternity, liberty equality could not become a natural course of things (Constituent Assembly Debates, Vol. 11:576).

The principle of justice as outlined by Prof. Bergson, whom Ambedkar quotes in relation to Hinduism is more comprehensive. He argues justice establishes a moral order, it evokes equality and proportion of ‘compensation’ and ‘equity signifies equality’. It is also applicable to rules and regulations in the society wherein ‘right and righteousness are concerned with equality in value’. He exemplifies this with the principle of equality:

If all men are equal, all men are of the same essence and the common essence entitled them to the same fundamental rights and to equal liberty.

In his own words, “In short, justice is simply another name for liberty equality and fraternity” (Ambedkar, 2014, Vol.3:25).

Ambedkar invokes the principle of social justice in various contexts. He primarily used it in the context of

- legal education,
- land ownership,
- political agency for depressed classes and
- religion.

Legal education

In reference to legal profession and legal education, Ambedkar emphasises on the need for social justice in legal education and need for inclusion and self representation of marginalized groups in legal profession. He opines:

The problem of overcrowding of the Legal Profession must be separated from the problems of legal education. It would be indefensible both from the stand-point of education and also from the stand-point of social justice to frame a scheme of Legal Education on a basis which would make legal profession the preserve of the few (Ambedkar, 2014, Vol.17 (2):7).

Land ownership

In constituent assembly debates, in a discussion on article 31 B of draft constitution, pertaining to the question of abolishment of estates and removal of intermediaries in zamindari system, Ambedkar observes:

Property in land particularly is not a Fundamental Right. Article 43 of the Irish Constitution clause (2), states that the exercise of the right mentioned, that is the right on land, should be regulated by the principles of social justice (Ambedkar, 2014, vol.15:354).

Political agency for depressed classes

Emphasising on the need for political awareness among the ex-untouchables to remove social injustice in Indian society, Ambedkar writes:

Two agencies are generally relied upon by the social idealists for producing social justice. One is reason, the other is religion (Ambedkar, 2014, Vol. 5:397).

In his understanding, these two agencies are insufficient and ineffective to produce social justice in Indian society. He explains,

The rationalists who uphold the mission of reason believe that injustice could be eliminated by the increasing power of intelligence. In the mediaeval age social injustice and superstition were intimately related to each other. It was natural for the rationalists to believe that the elimination of superstition must result in the abolition of injustice. This belief was encouraged by the results. Today it has become the creed of the educationists, philosophers, psychologists and social scientists who

believe that universal education and the development of printing and press would result in an ideal society, in which every individual would be so enlightened that there would be no place for social injustice (Ambedkar, 2014, Vol. 5:397).

On the need to have self-representation in legislation making process Ambedkar argues that given the disadvantage of untouchability the Scheduled Castes need separate electorate. In his Evidence before Southborough committee, he opines,

The right of representation and the right to hold office under the State are the two most important rights that make citizenship. But the untouchability of the untouchables puts these rights far beyond their reach (Ambedkar. Vol.1.p.256)

In order the Scheduled Castes exercise their political rights through self-representation he firmly advocates that they should have political agency of their own. He argues,

Therefore, instead of leaving the untouchables to the mercy of higher castes, the wiser policy would be give power to the untouchables themselves who are anxious, not like others, to usurp power but only to assert their natural place in society (Ambedkar. Vol.1.p. 268)

Religion

He further observes:

The Untouchables should bear in mind two things. Firstly, that it is futile to expect the Hindu religion to perform the mission of bringing about social justice. Such a task may be performed by Islam, Christianity, or Buddhism. The Hindu religion is itself the embodiment of inequity and injustice to the Untouchables. For it, to preach the gospel of justice is to go against its own being. To hope for this is to hope for a miracle. Secondly, assuming that this was a task which Hinduism was fitted to perform, it would be impossible for it to perform (Ambedkar, 2014, Vol. 5:398).

Responding to Gandhi, Ambedkar observes:

Why does the Mahatma cling to the theory of every one following his or her ancestral calling? He gives his reasons nowhere. But there must be some reason although he does not care to avow it. Years ago writing on “Caste *versus* Class” in his *Young India* he argued that Caste System was better than Class System on the ground that caste was the best possible adjustment of social stability. If that be the reason why the Mahatma clings to the theory of every one following his or her ancestral calling, then he is clinging to a false view of social life. Everybody wants social stability and some adjustment must be made in the relationship between individuals and classes in order that stability may be had. But two things, I am sure nobody wants. One thing nobody wants is static relationship, something that is unalterable, something that is fixed for all times. Stability is wanted but not at the cost of change when change is imperative. Second thing nobody wants is mere adjustment. Adjustment is wanted but not at the sacrifice of social justice. Can it be said that the adjustment of social relationship on the basis of caste *i.e.* on the basis of each to his hereditary calling avoids these two evils? I am convinced that it does not. Far from being the best possible adjustment I have no doubt that it is of the worst possible kind inasmuch as it offends against both the canons of social adjustment—namely fluidity and equity (Ambedkar, 2014, Vol. 1:91-92).

Further, analysing the influence of Hindu religion in producing social inequality in Indian society, Ambedkar writes:

The Hindu religious and social system is such that you cannot go forward to give its ideal form a reality because the ideal is bad; nor can you attempt to elevate the real to the status of the ideal because the real, i.e., the existing state of affairs, is worse than worse could be. This is no exaggeration. Take the Hindu religious system or take the Hindu social system, and examine it from the point of social utility and social justice. It is said that religion is good when it is fresh from the mint. But Hindu religion has been a bad coin to start with. The Hindu ideal of society as prescribed by Hindu religion has acted as a most demoralizing and degrading influence on Hindu society. It is Nietzschean in its form and essence. Long before Nietzsche was born Manu had proclaimed the gospel which Nietzsche sought to preach. It is a religion which is not intended to establish liberty, equality and fraternity. It is a gospel which proclaims the worship of the superman—the Brahmin by the rest of the Hindu society. It propounds that the superman and his class alone are born to live and to rule. Others are born to serve them, and to nothing more. They have no life of their own to live, and no right to develop their own personality. This has been the gospel of the Hindu Religion (Ambedkar, 2014, Vol. 1:218-219).

14.5 SOCIAL SCIENTISTS' ANALYSIS OF AMBEDKAR'S VIEWS ON SOCIAL JUSTICE

Many social scientists, social activists and Ambedkarites have analysed and interpreted 'Ambedkarian social justice' or social justice from Ambedkar's perspective. In all these analyses the emphasis is on Ambedkar's approach to social justice and how it is best suited for removing social injustice in Indian society. A few examples are discussed below.

Vivek Kumar observes that though Dr. Ambedkar did not propound any specific definition or theory of social justice per se, his theory of social justice could be carved out from his writings and speeches. He believes that the following five basic principles can be extracted from Ambedkar's writings, through which justice can be dispensed in the society:

- 1) Establishing a society where an individual becomes the means of all social purposes,
- 2) Establishing a society based on equality, liberty and fraternity,
- 3) Establishing democracy – political, economic and social,
- 4) Establishing democracy through constitutional measures, and
- 5) Establishing democracy by breaking monopoly of upper strata on political power (Vivek Kumar, 2007).

Valerian Rodrigues believes that Ambedkar approaches social justice by invoking equal rights with a strong interventionist role for the State in favour of the disadvantaged (Rodrigues, 2011: 154). Rodrigues extracts Ambedkar's premise for social justice on human equality in four arguments:

- 1) Equality is a value that sets standards for our ways of life, it thereby sustains a regime of rights,
- 2) While inequality ensures the survival of the fittest, equality ensures survival of the best, the fittest who survive might not be the best of the society,
- 3) A social body can bring out the best in men and women only when initial equality is extended to them and
- 4) People should be treated equally to avoid any unfair treatment (Rodrigues, 2011:163-164).

He further argues:

The deprivations and disadvantages that people suffer from are deeply group-bound and embedded in social relations. He, therefore, argued that the pursuit of justice and democracy would largely much depend upon overhauling social relations and transforming basic institutions (Rodrigues, 2011:171).

Kanta Kataria (2015:211) writes that “the true bases of social justice, according to Ambedkar, are rooted in the creed of Buddha. Buddha’s teachings are very vast and form the corpus of social justice.” She observes Ambedkar’s understanding of the Buddhism facilitated him to lay equal emphasis on liberty, equality and fraternity. According to her, in addition to liberty and equality, ‘... fraternity is an important plank in Ambedkar’s concept of social justice’ (Kataria, 2015:211). She writes:

Ambedkar’s concept of social justice, that is, fraternity, liberty and equality must co-exist. Since this is the path tread by Buddha, it can be said that the true bases of Ambedkar’s social justice are embedded in Buddhism (Kataria, 2015:212).

14.6 LET US SUM UP

The two main theories of justice show that distributive principles based on desert and need conflict each other. This requires striking of a balance between two. Rawls considers justice in terms of distributive justice whereas Miller goes beyond the principles of distributive and retributive justice. He considers social justice as more contesting and socially. Social justice depends on the context and situation. Whereas Rawls and Miller write on theories of justice, Ambedkar primarily uses social justice in the context of legal education, land ownership, political agency for depressed classes and religion.

14.7 QUESTIONS TO CHECK YOUR PROGRESS

- 1) Define the bases of social justice?
- 2) Critically analyse Ambedkar and social justice?
- 3) Discuss the interpretation of Ambedkar’s social justice by social scientists?

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UNIT 15 CONSTITUTIONAL MEANS AND SOCIAL JUSTICE

Structure

- 15.1 Objectives
 - 15.2 Introduction
 - 15.3 Ambedkar's Struggle for Social Justice in British India
 - 15.4 Ambedkar's Role in the Constituent Assembly towards the cause of Social Justice in Independent India
 - 15.5 Let Us Sum Up
 - 15.6 Questions to Check Your Progress
- Suggested Readings

15.1 OBJECTIVES

This unit would enable you to understand:

- Ambedkar's efforts for social justice in the British period;
- Ambedkar's contribution in the Constituent Assembly towards the cause of social justice; and
- Special provisions for certain classes.

15.2 INTRODUCTION

Ambedkar was born in an untouchable community, in a society based on graded inequality. The injustice and deprivation of basic human rights that he endured during his childhood and youth gave him a purpose and mission in life. During his time Ambedkar was the most articulate spokesman of the exploited and the downtrodden, particularly, of the depressed classes. He held pragmatic views on the amelioration of the sufferings of these classes and the role of the government in this regard.

In earlier units of this block we discussed the concept and bases of social justice. In this unit we will trace Ambedkar's quest for social justice through constitutional means and safeguards in British period. Ambedkar played a major role in the Constituent Assembly in enshrining constitutional rights and safeguards for ensuring social justice.

15.3 AMBEDKAR'S STRUGGLE FOR SOCIAL JUSTICE IN BRITISH INDIA

In his innumerable statements, representations and evidences Ambedkar spoke eloquently in support of adequate representation and constitutional safeguards for Depressed Classes. On 29 May 1928, he submitted a statement before the Indian Statutory Commission (better known as Simon Commission) on its arrival in India. Ambedkar demanded

protection of the interests of the Depressed Classes through representation in his “Statement concerning the safeguards for the protection of the interests of the Depressed Classes as a minority in the Bombay Presidency, and the changes in the composition of and the guarantees from the Bombay Legislative Council necessary to ensure the same under Provincial Autonomy.¹ He believed the quantum of representation should depend on the population and social status of the group. Moreover, the Government must ensure that:

- education is spread
- no discrimination is done during recruitment and
- adequate safeguards are provided.

Ambedkar, therefore, demanded:

- 1) That the education of the Depressed Classes shall be recognized as the first charge on the revenue of the Province and that an equitable and just proportion of the total grant for education should be earmarked for the benefit of the Depressed classes.
- 2) That the right of the Depressed Classes to unrestricted recruitment in the army, navy and the police shall be recognized without any limitation to the caste.
- 3) That for a period of 30 years, the right of the Depressed Classes for priority in the matter of recruitment to all posts, gazetted as well as non-gazetted, in all civil services, shall be recognized.²

Ambedkar insisted on adequate safeguards, as he believed that the “first essential of any scheme of reform is that adequate safeguards should be provided for the good Government of the inarticulate masses of the population.³” A committee had been constituted by the Government of Bombay in November 1928 to enquire into the educational, economic and social conditions of the Depressed Classes and the Aboriginal Tribes in the Presidency and to recommend measures for their uplift. Ambedkar was a prominent member of this Committee, popularly known as the State Committee. The Committee submitted its report to the Government in March 1930.

The Committee recommended scholarships and students’ hostels. For the economic uplift of the backward classes, it stressed on the need to recruit depressed classes in the police and urged that the present bar to the recruitment of the Depressed Classes in the army should be removed; that a Backward Class officer should maintain lists of qualified candidates from the backward classes and promote their recruitment; that hereditary services rendered by the backward classes should be enquired into; and the housing schemes for the backward classes should be promoted. On the social front, the Committee recommended legislations to prevent dedication of devdasis; and that boycott be checked by propaganda and legislation.⁴

During 1930-32, when the Round Table Conferences were held in London, Ambedkar played a stellar role in focussing Britain’s and the world’s attention on the problems of Depressed Classes and other weaker sections of India. Ambedkar and Rai Bahadur Srinivasan represented the Depressed Classes at the Round Table Conferences.

At the first Round Table Conference, Ambedkar spoke on his ‘Scheme for Political Safeguards for the protection of the Depressed Classes in the Future Constitution.’⁵ He

demanded that the Depressed Classes should be given a fundamental right enacted in the future constitution of India, which will declare untouchability to be illegal for all public purposes. Secondly, this fundamental right must also invalidate and nullify all such disabilities and all such discriminations that may have been made hitherto.⁶ He demanded safeguards to ensure the right to adequate representation in the legislature. Speaking on the subject of joint versus separate electorates, Ambedkar said:

We, the Depressed Classes, demand a complete partition between ourselves and the Hindus. We have been called Hindus for political purposes, but we have never been acknowledged socially by the Hindus as their brethren.⁷

At the same conference, Ambedkar also insisted on recruitment for the Depressed Classes in the services. Moving the resolution, he said, “the Sub-committee on Services desires that a generous policy be adopted in the matter of employment of the Depressed Classes in the public services; and it particularly recommends that the recruitment to the Police and Military Departments, from which they are now excluded, should be thrown open to them.”

Ambedkar submitted to the Round Table Conference on 4 January 1931, a Supplementary Memorandum on the Claims of the Depressed Classes for Special Representation, which defines the extent of special representation. He demanded representation for the Depressed Classes in proportion to their population as estimated by the Simon Commission and the Indian Central Committee. Subsequently he also demanded that the Depressed Classes shall have the right to elect their representatives to the provincial and central legislatures through separate electorates for their votes. To hit the nail on the head, he demanded that the Depressed Classes not only have the right to their electorate, but should also have the right to be represented by their own men.

The central focus of Ambedkar’s struggle in the British period, for constitutional rights of untouchables may be listed as follows:

- 1) All educational facilities should be provided to the Depressed Classes.
- 2) Depressed Classes should be given representation in state and central legislative councils on the basis of their population, needs and importance.
- 3) Jobs in the state and central government services should be reserved.
- 4) Depressed Classes should be given representation in all the democratic bodies of the country.
- 5) Provision of separate electorate should be made for the Depressed Classes.
- 6) Separate settlements should be established for the Depressed Classes.

15.4 AMBEDKAR’S ROLE IN THE CONSTITUTIONAL ASSEMBLY TOWARDS THE CAUSE OF SOCIAL JUSTICE IN INDEPENDENT INDIA

As the Chairman of the Drafting Committee, Ambedkar was closely associated with drafting of the Constitution for free India. As the unquestioned spokesman of the untouchables, Ambedkar kept in mind the interests of Scheduled Castes while drafting the Constitution. As a matter of fact, Ambedkar was a party to general consensus in the

Constituent Assembly that the term 'Backward Classes' would cover three principle components:

- Scheduled Castes
- Scheduled Tribes
- Other Backward Classes.

And Ambedkar addressed himself to the task of securing social justice for all backward classes in the country under the mandate of a new Constitution.

Fundamental Rights

Ambedkar was convinced of the need for a Bill of Rights in the Indian Constitution. He was continuously pleading for an elaborative system of fundamental rights for the minorities in particular and all the citizens in general. His fight for social justice was the main plank in his struggle as the leader of the minorities. He was also convinced that social justice could not be secured unless it was enshrined in the Constitution itself.

One of the first tasks to which the Constituent Assembly addressed itself was the formulation of a Bill of Rights with a pride of place accorded to social justice and non-discrimination. A comprehensive charter of rights was soon evolved through various stages in the Assembly and Committees. In the Indian Constitution, provisions aimed at preventing discrimination and promoting social justice are known as Fundamental Rights. Fundamental Rights in the Indian Constitution are more elaborate and comprehensive than the Bill of Rights in any other Constitution, because, India being a heterogeneous society, has diversity of religions and culture and social conditions. They are intended to provide not only security and quality of citizenship but also certain standards of conduct, citizenship, justice and fairplay.

The Fundamental Rights enshrined in the Indian Constitution are:

- guaranteeing equality before the law and equal protection of law (Article 14),
- prohibition of discrimination on grounds of religion, race, caste, sex or place of birth (Article 15),
- equality of opportunity in matters of public employment (Article 16),
- abolition of untouchability (Article 17),
- prohibition of traffic in human beings and forced labour (Article 23).

Ambedkar's efforts to abolish social inequality, social stigma and social disabilities in our society culminated in these provisions.

In nutshell it may be said that Ambedkar and the founding fathers of our Constitution emphasized that the objective of the Constitution was to establish an egalitarian society where rights were guaranteed to not a few but to all. They firmly believed that right to equality of opportunity has no meaning unless the vast disparities in society are reduced. Political liberties and individual freedoms are of little value when the fear of starvation compels the vast majority of the people to the will of a few. Right to private property has no meaning for those who have no roof over their heads. Right to leisure or freedom to choose one's profession conveys nothing to an unemployed person.

The Indian constitutional format is remarkable in respect of human rights, as a significant and unique attempt at conflict resolution. It seeks to achieve a balance between political and civil rights on the one hand and social and economic rights on the other or between the individual rights and demands of social justice. The whole scheme is based on a philosophy postulating a dialogue between individualism and state control.

Directive Principles of State Policy

While the Fundamental Rights guarantee the rights and liberties of the individual against arbitrary state action, the Directive Principles seek to emphasize economic and social goals. It was the intention of the founding fathers of Indian Constitution to incorporate into the Constitution concepts and principles that should determine governmental activity, which would bring about a social and economic change in the country.

Ambedkar defended the Directives Principles of State Policy in the following words:

Whoever captures power will not be free to do what he likes with it. In the exercise of it, he will have to respect these instruments of instructions which are called Directive Principles. He cannot ignore them. He may not have to answer for their breach in a court of law, but he will certainly have to answer for them before the electorate at election time. What great value these directive principles possess will be realized better when the forces of right contrive to capture power.⁸

The Directive Principles strive to create a welfare state and a just social order without any economic exploitation. Article 38 contains the essence of these principles:

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 national life.

Special Provisions

The provisions of Part XVI of the Indian Constitution may be described as special provisions relating to certain classes – the Scheduled Castes and Tribes, the Anglo-Indians and the socially and educationally Backward Classes.

- Article 330 provides that seats shall be reserved for Scheduled Castes and Scheduled Tribes in the House of the People.
- Article 331 provides for representation of the Anglo-Indian community by nomination by the President, in case that community is not adequately represented in the House of the People.
- Article 332 provides that seats shall be reserved for Scheduled Castes and Scheduled Tribes in the Legislative Assemblies of the States.
- Article 333 provides for representation of the Anglo-Indian community by nomination by the Governor, in case that community is not adequately represented in the States' Lower Houses.
- According to Article 334, the period of such reservations is fixed as ten years from the commencement of the Constitution.
- Article 335 stipulates that the "claim of the members of the Scheduled Castes and Scheduled Tribes shall be taken into consideration, consistence with the maintenance

of efficiency of administration, in the making of appointments to services and posts in connection with the affairs of the Union or of a State”

- Article 336 deals with special provisions for appointments in certain services for the Anglo-Indian community.
- Article 337 deals with educational grants for the Anglo-Indian community.
- Article 338 provides for a Special Officer for the Scheduled Castes and Scheduled Tribes to be appointed by the President, whose duty is to investigate all matters relating to the safeguards for the Scheduled Castes and Scheduled Tribes and to report to the President. For the purpose of Article 338, reference to Scheduled Castes and Scheduled Tribes are to be construed as including references to such other backward classes as may be specified by the President on receipt of a report from a commission which may be appointed under Article 340 (1).
- Article 339 provides for the appointment of a commission to report in regard to the administration of the scheduled areas and the welfare of the Scheduled Tribes.
- Article 340 (1) provides for the appointment, by the President, of a commission to investigate the conditions of socially and educationally backward classes within the territory of India and the difficulties under which they labour and to make recommendations as to the steps that should be taken by the Union or any State to remove such difficulties and improve their conditions etc.

Speaking about the special provisions incorporated in the Indian Constitution, Ambedkar made the following observation:

Speaking for myself, I have no doubt that the Constituent Assembly has done wisely in providing such safeguards for minorities as it has done. In this country, both the minorities and the majority have followed a wrong path. It is wrong for the majority to deny the existence of minorities. It is equally wrong for the minorities to perpetuate themselves. A solution must be found which will serve a double purpose. It must be to recognise the existence of minorities to start with. It must also be such that it will enable majorities and minorities to merge someday into one. The solution proposed by the Constituent Assembly is to be welcomed because it is a solution which serves this two-fold purpose. To die-hards, who have developed a kind of fanaticism against minority protection, I would like to say two things. One is that minorities are an explosive force, which, if it erupts, can blow up the whole fabric of the state. The history of Europe bears ample and appalling testimony to this fact. The other is that minorities in India have agreed to place their existence in the hands of the majority...

The details of the constitutional provisions amply demonstrate the remarkable manner in which Ambedkar applied his mind to the problems confronting the country, his acute sense of observation and in-depth understanding of the social and cultural background of the Indian society. He combined in himself the role of social reformer, a political leader and a spiritual guide of the untouchables.

15.5 LET US SUM UP

Ambedkar’s idea of constitutionalism revolved around social justice. He wanted to create an egalitarian society through the process of constitutionalism. He wanted an India free

from discrimination, exploitation and untouchability. His initial efforts, during the British period, lay in demanding constitutional rights and safeguards, including separate electorates for the Depressed Classes. After independence, Ambedkar approached the problem from a wider perspective of nationalism, democracy, humanity and justice.

15.6 QUESTIONS TO CHECK YOUR PROGRESS

- 1) Discuss the constitutional safeguards Ambedkar demanded for Depressed Classes in British India.
- 2) Discuss Ambedkar's efforts for Fundamental Rights in Constitutional provisions aimed at preventing discrimination and promoting social justice.
- 3) Elaborate the special provisions related to the Scheduled Castes and Tribes, the Anglo-Indians and the socially and educationally Backward Classes.

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- ² *Ibid.*, p. 442.
- ³ *Ibid.*, p. 445.
- ⁴ D. Jeevan Kumar. 1992, cited in *Ambedkar and Social Justice*, Vol. 1. Directorate of Publications Division, Ministry of Information and Broadcasting, Government of India, p. 268.
- ⁵ Sushma Yadav. 2006. *Social Justice: Ambedkar's Vision*, Indian Institute of Public Administration, New Delhi.
- ⁶ Vasant Moon (ed.). 1982. *Dr. Babasaheb Ambedkar: Writing and Speeches*, Vol. 2. Government of Maharashtra, Bombay, pp. p. 532.
- ⁷ *Ibid.*, p. 533.
- ⁸ *Debates*, vol. VII, p. 41.

UNIT 16 INSTITUTIONAL MEASURES AND SOCIAL JUSTICE

Structure

- 16.1 Objectives
 - 16.2 Introduction
 - 16.3 Ambedkar's Proposition for Special Provisions
 - 16.4 The Logic of Preferential Treatment Explained
 - 16.5 Situating Ambedkar's on Reservation in Contemporary Time
 - 16.6 Let Us Sum Up
 - 16.7 Questions to Check Your Progress
- Suggested Readings

16.1 OBJECTIVES

This unit would enable you to understand:

- Ambedkar's interventions for special provisions;
- Explanation of preferential treatment;
- Background of reservation to Scheduled Castes and Scheduled Tribes; and
- Contextualizing reservation in contemporary time.

16.2 INTRODUCTION

In a society that is characterised by 'graded inequality', which means elevation for some and degradation for others, it is important to understand the significance of institutional measures for social justice. The State and its institutions need to make a positive intervention to not only initiate several measures but also see to it that those measures get implemented in true letter and spirit. If the State and its institutions do not take extra effort to ensure social justice, a large chunk of its marginalized populations would remain out of the development process. In other words social justice would remain a mirage for the weak and the poor and resources of all kinds would be usurped by the powerful and the rich.

The State and its institutions which draw their legitimacy from the sovereign republic that is vested in the people must work to dispense with issues related to social justice in a conducive manner.

16.3 AMBEDKAR'S PROPOSITION FOR SPECIAL PROVISIONS

Ambedkar time and again argued for special provisions for disadvantaged groups. Valerian Rodrigues writes:

“From early on, starting with his statement to the Southborough Committee in 1919, Ambedkar consistently argued that the Indian polity cannot be solely based on the foundation of equal rights and liberties. In the system of liberal dispensation being formulated in India, he felt, there need to be certain special provisions for the disadvantaged groups as well as for those who are different on grounds of religion, language and nationality. He argued that the inability to attend to social disadvantages and differences cannot be defended on grounds of justice and fairness and is likely to compromise political stability. He felt that a major drawback of liberal democracy was its insensitivity to reach out proactively towards those subject to disadvantages of one kind or the other... In turn, Ambedkar proposed a set of principles justifying preferential treatment, and along with it, suggested an entire complex of public institutions and policy measures to combat disadvantage and reach out to differential considerations. In his early formulations Ambedkar argued for special provisions for the untouchables on grounds of representation, social presence and selfhood. In later years, he reworked these principles and placed greater stress on equality and democracy. Although both sets of arguments complement each other, they were revisited whenever occasion arose”.¹

Rodrigues goes on to explain the need for such kind of intervention made by Ambedkar:

“One of the early arguments of Ambedkar for special provisions to the disadvantaged groups concerns representation. With appropriate modifications this argument can be applied to other groups as well whose interests and concerns are not adequately taken into account while formulating public policy. He argued that the first purpose of representation is ‘to transmit the force of individual opinion and preference into public action’. When a group or community is denied representation, or denied it in fair measure, then its beliefs and preferences have little bearing in shaping public policy”.²

Ambedkar put forth his demands for the representation of Scheduled Castes in public institutions when he was appointed to the British Viceroy’s Executive Council as a member on 9 July 1942.

Ambedkar’s Memorandum to Governor-General

Ambedkar prepared a Memorandum on Grievances of the Scheduled Castes and submitted to the Governor-General on 29 October 1942.

The grievances of the Scheduled Castes presented are as follows:

a) Political Grievances:

- Inadequate representation in the Central Legislature,
- Inadequate representation in the Central Executive,
- Inadequate representation in the Public Services,
- Inadequate representation in the Federal Public Services Commission.

b) Educational Grievances

- Want of aid for university and for advanced education,
- Want of facilities for technical education.

c) **Other Grievances**

- Neglect of the untouchables in Government publicity: and
- Closed-doors for the untouchables in Government contracts.

This memorandum set out the grievances of the Scheduled Castes and suggested measures necessary for redressing them. In listing the grievances, attention was focused only on those grievances that the Central Government alone could address.

16.4 THE LOGIC OF PREFERENTIAL TREATMENT EXPLAINED

Ambedkar's urge for a transformative intervention by the state was so powerful that he advocated special treatment for the untouchables. He argued:

“The untouchables are usually regarded as objects of pity but they are ignored in any political scheme on the score that they have no interests to protect. The socio-religious disabilities have dehumanized the untouchables and their interests at stake are therefore the interests of humanity. The interests of property are nothing before such primary interests. If one agrees with the definition of slave as given by Plato, who defines him as one who accepts from another the purposes which control his conduct, the untouchables are really slaves. The untouchables are so socialized as never to complain of their low estate. Still less do they ever dream of trying to improve their lot, by forcing the other classes to treat them with that common respect which one man owes to another. The idea that they have been born to their lot is so ingrained in their mind that it never occurs to them to think that their fate is anything but irrevocable. Nothing will ever persuade them that men are all made of the same clay, or that they have the right to insist on better treatment than that meted out to them”.³

Not only has untouchability arrested the growth of their personality but also it comes in the way of their material well-being. It has also deprived them of certain civil rights. For instance, in Konkan the untouchables were prohibited from using the public road. If some high caste man happens to cross him, he has to get out of the way and stand at such a distance that his shadow does not fall on the high caste man. The untouchable is not even a citizen. Citizenship is a bundle of rights such as (1) personal liberty, (2) personal security, (3) right to hold private property, (4) equality before law, (5) liberty of conscience, (6) freedom of opinion and speech, (7) right of assembly, (8) right of representation in a country's Government and (9) right to hold office under the State. The right of representation and the right to hold office under the State are the two most important rights that make up citizenship. But the untouchability of the untouchables puts these rights far beyond their reach. In a few places they do not even possess such insignificant rights as personal liberty and personal security, and equality before law is not always assured to them. In his Evidence before the Southborough Committee, Ambedkar pleaded for representation for the Depressed Classes as others cannot voice the interest of the untouchables:

They are distinctively their own interests and none else can truly voice them. A free trade interest can be voiced by a Brahmin, a Mohammedan or a Maratha equally well. But none of these can speak for the interests of the untouchables because they

are not untouchables... Untouchability constitutes a definite set of interests which the untouchables alone can speak for. Hence it is evident that we must find the untouchables to represent their grievances which are their interests and, secondly, we must find them in such numbers as will constitute a force sufficient to claim redress.⁴

16.5 SITUATING AMBEDKAR ON RESERVATION IN CONTEMPORARY TIME

Equality is always among the equals. To treat unequals as equal is nothing but perpetuation of inequality. There is a need to understand the reasons due to which caste-based affirmative action (reservation policy) is required to bring the hitherto excluded, marginalized and discriminated groups of people into the national mainstream. It is pertinent in this context to explain here that caste-based reservation policy that is followed in the country is not an anti-poverty programme of the government. Caste-based reservation policy is also not a charity that the government bestows on the wretched of this country that have been at the receiving end of humanity, human rights, equality and justice since millennia. In actual sense the caste-based reservation stands for parity, representation, human rights and is a defence mechanism against any and every case of caste-based discrimination and exclusion.

Reservation policy is a means to have equal say in the policy making and governance as well. It is not against merit at all. Those who oppose it on such grounds that it affects merit and efficiency and that is why the caste-based reservation should not be allowed to continue any more fail to see the stranglehold of the iniquitous and anti-human rights aspects of the caste system.

It is also true at the same time that the policy of caste-based affirmative action (reservation policy) may not be panacea to all the ills affecting the most marginalized sections of Indian society, but at the same time it must also be understood that without annihilating the structures of discrimination and exclusion, it would not be possible to establish an egalitarian society based on the principles of liberty, equality and fraternity. Thus it becomes necessary for the Indian State to continue with some or the other kind of affirmative action as a means to ensure that discrimination and exclusion is not practiced in society, economy and polity.

Ashwini Deshpande brings out a clear picture of the situation that exists in India about the marginalization that Dalits, Adivasis and Other Backward Castes (OBCs) face on a day-to-day basis. This is based on several studies that have been undertaken over the years,

“data from a variety of sources on material standards of living, poverty rates, health status, educational attainment and occupational outcomes indicate that the disparities between SC-ST on the one hand and non-OBC Others (a loose proxy for upper castes) are persistent and systematic, regional variation notwithstanding (see, for instance, Deshpande (2011) and Thorat and Newman (2010))... There is sufficient evidence that amply demonstrates the various aspects of stigmatization, exclusion and rejection that Dalits continue to face in contemporary India. In rural India, despite the breakdown of the traditional subsistence economy, caste continues to exert its strong presence in many different dimensions. Shah et al. (2006) document untouchability in rural India based on the results of an extensive survey carried out

over 2001-2002 of 565 villages across 11 states. They find that untouchability is not only present all over rural India, but it has “survived by adapting to the new socio-economic realities and taking on new and insidious forms. Navsarjan (2010) is the latest comprehensive study of untouchability in 1589 villages in Gujarat. It documents 98 types of untouchability practices directed towards Dalits by non-Dalits, for instance, tea stalls keeping separate cups for Dalit customers which they have to wash themselves, not buying milk or vegetables from Dalit vendors, making Dalit children sit separately and at the back of the classroom in schools and so on. While the flouting of caste norms for marriage is not very widespread, the worst social punishments are reserved for the alliance between a Dalit man and an upper caste woman. Urban India might have fewer overt instances of untouchability, but for a practice which has been outlawed for over six decades, it is remarkably resilient and continues to exist in various forms.”⁵

Average wages for SCs and Others differ across all occupation categories, and there are a number of decomposition exercises which divide the average wage gap into explained and discriminatory components (for instance, Madheswaran and Attewell, 2007). The fact that the two groups enter the labour market with substantial differences in education levels indicates pre-market discrimination. There is plenty of evidence which documents the substantial gaps between SCs and others in access to education, quality of education, access to resources that could enhance learning, and also of active discrimination inside schools by teachers (Nambissan, 2007). Such pre-market discrimination insures that outcomes will necessarily be unequal, even if there were no active labour market discrimination. The evidence on persistence of caste-based economic discrimination in rural areas is perhaps not as surprising as the evidence from urban areas, especially in the modern, formal sector jobs. In rural areas individuals are more easily identified by their caste status and presumably are more inclined to pursue caste based occupations given the correspondingly lower spread of the modern, formal economy. Caste is supposed to be anonymous in urban settings; identification of caste is difficult, since it is not phenotypically ascriptive. Additionally, urban markets are supposed to respond to “merit” and so even if hypothetically, caste could be identified, it should not matter.⁶

In the first major correspondence study in India, Thorat and Attewell (2007), sent out exactly identical resumes to private companies, both domestic and MNCs, in response to newspaper advertisements in New Delhi during 2005-06. The only differences in the resumes were the easily identifiable names of applicants: Hindu upper caste, Hindu Dalit and Muslims. The study revealed significant differences in call-backs between Hindu upper castes and the other two categories. These findings are confirmed by Siddique (2009) in a study of Chennai. She additionally tests for the interaction between caste and gender and finds that the lowest call-backs are received by Dalit women... There are studies of hiring practices which emphasize the role of networks and that of informal and personalised recruitment, where “who you know” is often more important than “what you know”. In a college-to-work study, which tried to uncover the exact pathways through which discrimination manifests itself, Deshpande and Newman (2007) tracked a group of students from the three premier Indian universities in Delhi for two years trying to understand what jobs they got, how they got them and what their interview experiences were. It turned out that employers were extremely conscious of the social identity of the applicant, all the while professing deep allegiance only to the “merit” of the candidate. Jodhka and Newman (2007), in an employer attitude survey, find that employers, including MNCs, universally use the language of merit. However, managers are blind to

the unequal playing field which produces “merit”. Commitment to merit is voiced alongside convictions that merit is distributed by caste and region... In view of the unambiguous evidence on discrimination, Affirmative Action becomes essential to guarantee representation to Dalits in preferred positions. It should be noted, if not for any other reason than the fact that Affirmative Action is applicable only to the public sector, whereas the evidence of discrimination is overwhelmingly from the private sector, which is becoming increasingly important in the Indian economy... The gross violations against particular castes resulting from centuries of untouchability, the argument of compensation for historical wrongs could be, and has been used as one of the elements in the case for Affirmative Action. However, the case for Affirmative Action as a compensation for contemporary exclusion is just as strong, even if one did not view it as necessary to remedy historical exclusion.”⁷

16.6 LET US SUM UP

So far as Ambedkar’s understanding on the disadvantaged Dalit and Adivasis’s quest for equality and justice is concerned, he emphasized the role of the state:

“Ambedkar primarily emphasized the role of the state in attending to issues of disadvantage and for upholding the concerns of the disadvantaged as citizens. The state is the voice of the citizen-collective and it cannot shirk this responsibility. If a polity opts for liberalization, it cannot be market-driven but needs to uphold the will of the citizen-collective. A state approaches concerns of preferential consideration, not merely programmatically, that is, by adopting a set of policies and programmes, but by striving towards an ideological consensus across society through a number of apparatuses and interventions open to it”.

He also argued that, while the state plays such a role, it is the disadvantaged themselves, and in the Indian context they are the Dalits, Adivasis and similar social groups, who should decide what is good for them while respecting the rights of the others. Ambedkar would definitely have suggested representative fora of these social groups to devise what they consider as reasonable policies to be pursued in this context. Deliberation of this kind and the specific proposals flowing from them requires that the polity remains open and transactional. In its absence, there would not be anything wrong if the disadvantaged groups were to mount unilateral pressures, including pressure to retract from liberalization or any of its specific expressions”.

For Ambedkar equality is a moral value that foregrounds pursuit of rights including rights to property. Those who are not deferential towards equality cannot claim respect towards their rights including their rights to property, contract and transactions. Promotion of equal consideration is as much a responsibility of civil society as it is of the state.⁸

But whatever be the new arrangements that may emerge in the times to come, what is noteworthy in this regard is the necessity of State intervention to protect the most vulnerable and the marginalized – the Dalits and Adivasis and concerns for social justice must remain the guiding force of governance.

16.7 QUESTIONS TO CHECK YOUR PROGRESS

- 1) Why should a democratic polity make institutional measures ensuring social justice for its disadvantaged people?

- 2) Discuss Ambedkar's intervention of special provisions for Scheduled Castes?
- 3) In a system of graded inequality, why is it important to dismantle the structures which are responsible for discrimination and exclusion faced by the marginalized and the disadvantaged?
- 4) Should new economic policies do away with caste-based discrimination and exclusion? If yes, how?

SUGGESTED READINGS

Ambedkar, B. R., "Evidence before the Southborough Committee," *Babasaheb Ambedkar Writings and Speeches*, vol. 1. Bombay: Education Department, Government of Maharashtra, 1979. pp. 243-278.

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Endnotes

¹ Valerian Rodrigues, "Ambedkar on Preferential Treatment," *Seminar*, No. 549, May 2005

<http://www.india – seminar.com/2005/549/549%20valerian%20Rodrigues.htm#top>

² B. R. Ambedkar. "Evidence before the Southborough Committee," *Babasaheb Ambedkar: Writings and Speeches*, vol. 1, pp. 243-278, Education Department, Government of Maharashtra, Bombay, 1979, cited in Valerian Rodrigues, *ibid*.

³ B. R. Ambedkar. "Evidence before the Southborough Committee." pp. 255-56.

⁴ *Ibid*

⁵ Ashwini Deshpande. "Social Justice through Affirmative Action in India, Working Paper Series, No. 314. Political Economy Research Institute, University of Massachusetts, Amherst, February 2013, pp. 3-5.

⁶ *Ibid*

⁷ *Ibid*

⁸ Valerian Rodrigues, *op.cit*