

20.4 SOCIAL JUSTICE

Social justice relates to the balance between an individual's rights and social control ensuring the fulfillment of the legitimate expectations of the individual under the existing laws and to ensure him benefits and protection against any encroachment on his rights. Let us examine the term, 'social justice' in terms of the following aspects of justice, viz. one, the notion of the predominance of the interest of the community and two, the notion of 'reform', or social change.

20.4.1 Predominance of the Interest of the Community

With the decline of the laissez-faire doctrine, a new awareness has developed that the rights of an individual should be reasonably restricted in the interests of the community because the ends of social justice require the reconciliation of individual rights with that of community interest. It also presumes that in the event of a conflict between the two, the community interest must prevail over individual concerns. Social justice is, thus, closely linked with the idea of what constitutes public good or community interest. Today with the penetration of democracy into the social and economic spheres, community interest has come to encompass not only the political (fair treatment in political matters) but also the social (non-discrimination in social areas) and economic (fair distribution of income and wealth) spheres. Thus, social justice ranges from the protection of minority political rights to the abolition of untouchability and the eradication of poverty. As such, in the backward countries of the world, the idea of social justice enjoins upon the state to make concerted efforts for the improvement of the downtrodden and weaker sections of the community.

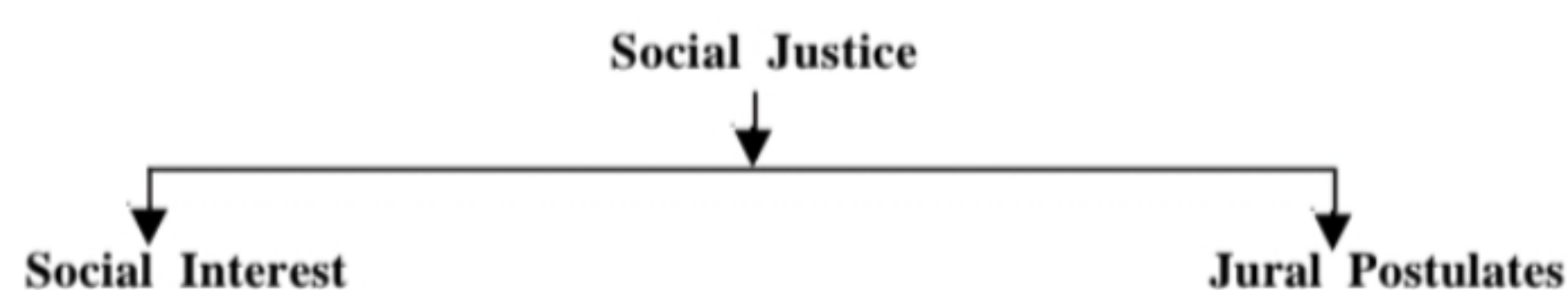
20.4.2 Reforms or Social Change

Social justice is used to denote organization of society on the basis of fairness and equality current at the time. It seeks a revision of the existing order to have a more equitable society. Men through the ages, have sought changes in social order, just as much as they have also sought to preserve a given social order. Social justice stands for reformatory justice, for revision of the social order and a redistribution of rights to suit current ideas of fairness. When Aristotle spoke of 'distributive justice' he had reformatory or what Raphael calls "prosthetic" justice in mind, because its aim was to modify the status quo.

A hundred years ago, justice did not require governments to take care of the unemployed. Charity was supposed to do that. Due to the operation of notions of "reformatory" or "prosthetic" justice, today, it is considered the state's duty to take care of the unemployed and provide them employment.

20.4.3 Pound's Illustration of Social Justice

The affirmation of the idea of social justice is very well contained in the interpretation of Dean Roscoe Pound who presents a six-fold illustration of social interest and lays down eight juristic postulates to ensure social justice. Thus, the idea of social justice envisages to promote the welfare of the people by securing a just social order.



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| 1) In general security, e.g., peace, public health, security of acquisitions, etc.; | 1) That no wanton aggression is made by others; |
| 2) In security and social institutions, e.g., marriage, religious institutions, etc.; | 2) That parties with whom transactions are entered into will act in good faith; |
| 3) In general morals, e.g., gambling, drinking, immoral traffic, etc.; | 3) That there will be no hindrance in the enjoyment of one's acquisitions and creations; |
| 4) In conservation of social resources, e.g., food minerals, etc.; | 4) That the person will not be exposed to undue risks and that others will act with due care and caution; |
| 5) In general progress, e.g., freedom of trade, encouragement of research, etc.; | 5) That dangerous things kept by others shall be cautiously and carefully kept within its bounds; |
| 6) In individual rights, e.g., wages conditions of work, etc. | 6) That an employee has a right to employment; |
| | 7) That society will share the misfortunes which befall on the individual; and |
| | 8) That proper compensation will be paid to workers for necessary human wear and tear in an industrial society. |

20.4.4 Criticism of Social Justice

Theories of social justice are criticised on three grounds. Firstly, demands for social justice, by implication, enlarge the activities of the state. The state, then, will have to decide, "who gets, what, when and how." Where the officers of the state develop vested interests, such subjective determination is not likely to serve the ends of social justice. Secondly, policies of social justice and their implementation require curtailment of liberty. How much of liberty should be sacrificed for how great/small social justice becomes a problem difficult to solve. Lastly, it is difficult to assess which are the basic needs that have to be satisfied to fulfill the criteria of social justice and which justify departure from equality.

However, when the Indian Constitution announces reservation of seats in legislature, educational institutions and public employment, it entails departure from equality. Various justifications are offered for these policies in terms of justice. Firstly, that such treatment compensates for the hundred years of deprivations. Secondly, that these measures are necessary for realising ultimate equality to bring them on an equal footing with society and thirdly, that justice can be done only if the state comes forward with preferential policies to help them gain social respect, economic viability and political status.

Check Your Progress 3

Note: i) Use the space given below for your answer.

ii) See the end of the unit for tips for your answer.

- 1) What is social justice? On what grounds has it been criticised?

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