

EQUALITY AS A STATEMENT OF RIGHT, NOT OF FACT

At the outset, it is essential to note that the modern idea of equality is derived

from the theory of rights. Equality is a prescriptive term, not a descriptive one.

We argue that men must be treated as equal, not that they are in fact equal. We, of

course, advance some logic in support of our claim to human equality. For instance,

we postulate that man as such is a rational being; he is endowed with the faculty of 'reason'; all men are created equal by God. Or we argue that the physical,

emotional and intellectual needs of all men are similar; hence all are entitled to

equal rights. We do not say that all men are equal in their physical or mental

capacities, beauty and talents, etc. Sometimes we dwell on physical attributes to

press our claim, such as, when we argue that men may differ in the colour of

their skin, but they are all similar in the colour of their blood, hence they should

be treated equally. Nature has not made different persons with different elements.

A drug does not discriminate between the Jew and the Gentile while showing its

effect. Blood group of the black may match with that of the white whereas it may not match in the case of two whites or blacks. The black may donate his eye

or kidney to the white to restore his lost vision or to give him a new lease of life.

In short, the distinction between different races is not ordained by nature. Thus

we tend to establish some fundamental equality among men—equality as a fact—

to press their claim of equality as a right.

Sometimes, it is argued that the idea of equality does not derive its support from nature, as the idea of liberty does, hence it is not based on reason..

For

instance, it is stated that nature has created all things .unequal, right from the sun

and moon, sky and earth, mountains and oceans, plants and trees, birds and

animals to men and women, older and younger, stronger and weaker, wiser and

stupid, and so on. Hence the principle of equality nowhere holds good. Why should it be imposed against the scheme of the nature itself? Such arguments

come in very handy to those who wish to preserve their privileged position.

They

are quite apprehensive of the idea of equality because they believe that liberty

enables men to acquire unlimited wealth, power and prestige while equality seeks

to diminish their achievements. They even try to demonstrate that any measure

to limit their liberty, in the interest of equality, will rob society of its valuable assets, and that the idea of equality should be thoroughly abandoned in the interest

of society!

This line of argument is, however, based on a distorted concept of liberty.

Freedom in society can serve as a valid rule only when it is interpreted as 'equal

freedom' of all, not otherwise. Absolute liberty will only result in the liberty of the strong and the clever to oppress the weak and the simple. If liberty is not to

degenerate into license, it must be qualified by equality. In other words, I can

enjoy my freedom only to the extent that it does not infringe on the similar and

equal freedom of others. Now, this principle cannot be restricted to the legal sphere; it must be extended to the political, social and economic spheres also. As

R.H. Tawney, in his classic work *Equality* (1938), has observed:

If liberty means . . . that every individual shall be free, according to his opportunities, to indulge without limit his appetite ... it is clearly incompatible, not only with economic and social, but with civil and political, equality, which also prevent the strong exploiting to the full the advantages of their strength . . . But freedom for the pike is death for the minnows. It is possible that equality is contrasted, not with liberty, but only with a particular interpretation of it.

Accordingly, the introduction of equality is not intended to dilute the content of liberty but to make it more relevant and substantive. If the principle of equality

is invoked to prevent some section of society from acquiring unlimited money,

power or prestige, it is only intended to restrict the element of 'exploitation' so

that other sections of society are not deprived of their due share in these advantages. Equality aims at widening the base of social benefits lest these benefits

are cornered by a small and vocal minority impoverishing the rest of the community.

It is, therefore, evident that liberty and equality, as human rights, do not emanate

from very different sources. On the contrary, they are based on the same logic,

and they are intended to serve the same social purpose.