



Status of Right to Work and Dimensions of Social Justice in Scenario of Globalization

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Abstract: Bharat Ratna Babasaheb Dr. B.R. Ambedkar, the Chief Architect of India's Constitution, is considered the man of millennium for social justice. Ambedkar's legislation, which repealed portions of Hindu scriptures, recognized citizens' rights to work, education, and public assistance, emphasized just working conditions, living wage, and promoting educational and economic interests. Trade is a crucial aspect of globalization, as people exchange goods and services with neighbors and strangers worldwide. Economics studies these exchanges, which greatly influence personal lives. However, a simple model of domestic and international trade is uncertain, as it could lead to neo-colonialism or imperialism. Complications to the economic model include monopolies, lack of information, and rules that may not exist in real life. Despite these, exchange, buying and selling, commerce, and markets are at the heart of globalization.

Keywords: Right work, Social Justice, Fundamental Rights, Constitutional Rights, Law

Introduction

Bharat Ratna Babasaheb Dr. B.R. Ambedkar, the Chief Architect of Constitution of India, is the man of millennium for social justice, in the sense that he became the deliverer of or the Messiah of the Dalits, the erstwhile untouchables, Other Backward Classes (OBCs), and women, constituting 95% of Hindu population. That big segment of population had been forced to live at a sub-human level from time immemorial, under caste system, sanctioned by Hindu scriptures. He was the man of millennium for social justice, since he was the first man in history to successfully lead a tirade of securing social justice to the vast

sections of Indian humanity, with the help of a law, which practically repealed the concerned portions of Hindu scriptures.¹

Right to work and its dimension

Article 41 recognizes every citizen's right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement and in other cases of undeserved want. Article 42 stresses, the importance of securing just and humane conditions of work and for maternity relief. Article 43 holds before the working population, the ideal of the living wage and Article 46 emphasizes, the importance of the promotion of educational and economic interests of

¹ The 6th Dr. Ambedkar memorial lecture (AML) is on –Dr. B. R. Ambedkar thoughts on women's emancipation and

the lecture will be delivered by renounced sociologist Dr. Sharmila Rege.



schedule castes, schedule tribes and other weaker sections.²

As Lechner (1996) suggests, ongoing economic reforms frequently restrict the action of the states at the same time as they produce a dramatic movement towards the privatization of social behaviour⁴:

In „consumer societies“, including their marginalized sectors, individuals value and calculate, in different ways, the time, the emotional energy and the financial means they invest in public activities. Any appeal to solidarity will remain abstract unless we take into account the „me culture“, cautious about involvement in collective commitments.³

For some, engagement with globalization and social justice issues may entail becoming more informed about the changes across our planet that have had major effects on people and their environment. For others, engagement may compel research on impacts of globalization at home or in other nations. Engagement may involve organizing educational conferences, ethical purchasing, volunteerism and service learning, and work for related projects in communities, local and far away. Engagement may lead to fostering sustainable entrepreneurs and establishing support for worker- owned cooperatives, micro-lending firms, and fair-trade businesses. Moreover, engagement may suggest activism aimed at promoting changes in policies, programs, and practices of governments.⁴⁰

A social justice perspective on globalization assumes that change for

human and environmental betterment is not only possible but also urgently compelling. As we sign on as change agents, we embrace beliefs that people, communities, institutions, and nations can change and that human service practice can change. We do not see unnecessary death, starvation, social exclusion, abject poverty, and ethnic hatred or cleansing as inevitable but instead as challenges to larger human rights and social justice agendas, which compel study and informed action.

Dimensions of Globalization and Social Justice

Consider trade. People trade with neighbors and with strangers across their land and around the globe. They trade their work for pay with which to buy the goods and services they want. Corporations may buy factors of production not visible to most of us, and they may buy their labor from near or far. Various financial markets facilitate trade. The study of these exchanges and more is called economics and greatly influences even our personal lives.

In the last decade, international and global trade has flowered and constitutes much of what we mean by globalization. Yet, it is uncertain that a simple model of domestic and international trade holds. For example, sufficient concentrations of global power could make of globalization neo-colonialism or imperialism. If that were to be true, trade might benefit some and harm others. There are complications to the economic model—such as monopoly or oligopoly, lack of information, and a need

² Dhananjay Keer, "Ambedkar: Life and Mission", 1961, p. 375.

³ Lechner, 1996- *cultural studies* 17(6) 2003, 905-920 *cultural studies* ISSN 0950-2386 print/ISSN 1466- 4348 online © 2003 Taylor

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Vargas feminism, globalization and the
global justice and solidarity movement.



for rules that may not exist in the real world. Were the model not to hold, we might expect more discrepancy between beneficiary and loser. Still, exchange, buying and selling, commerce, and markets are at the heart of what globalization is about. These have greatly expanded, and in this book, we reckon some reasons for this expansion and discuss their connections with social justice and the human services.

According to current wisdom, the world has shrunk and has even been called a global village (McLuhan 1989). More to the point, however, is how small the globe seems, what might be referred to as—phenomenological globalization. In large measure, phenomenological globalization is due to technology. For example, navigational technologies made it possible for Columbus to think of circumnavigating the globe. Steam and then internal combustion engines shortened a trip that had taken months to less than a week; airplanes, to less than a day; modern airplanes of the sort used on 9/11, to approximately six hours. The cost of travel has gone down as well, obviously because time is money, but also otherwise. Business people routinely traverse the globe. Fifteen of the nineteen men involved in the events of 9/11 were from Saudi Arabia, and many had not just flown here but also back to Europe and from city to city in this country. In short, modern technologies of transportation have changed the barrier moats of the Atlantic and Pacific Oceans, which had separated the Americas from older worlds into easily traversable rivulets (never mind the technology that underlay the worldwide 24/7 news without which terrorism would be far less potent). All of

this has had profound influences on the flows of goods and services that make up trade. In general, trade can be conducive to prosperity and social justice. However, there are exceptions such as trafficking in women and children, trade in weapons and in the training of how to use them—as well as trade as a mechanism for nuclear proliferation. These and more are not likely to promote social justice, rather the opposite.⁴

Technologies of communication are also important to globalization. The ability to speak on a traditional phone or a cell or satellite phone or to broadcast one's speech and image to millions augments communication even beyond reading and writing. If printing facilitated civilization electronic communication has altered the social, political, and economical makeup of the global village and the locus of social justice. More recent developments in this area have in various interesting ways projected globalization into outer space. The Soviet Union's launching of Sputnik was transformative. Sputnik changed American education, aiming it toward global competition. The Soviet satellite had two messages: one outward looking and on internecine but both global. One message heralded the globe's location in outer space⁶⁷. The second announced the imminence of intercontinental ballistic missiles. Soon, we could wipe out the Soviet Union, and they us, with a push of a button. Indeed, either side was capable of destroying not only the other side but civilization itself. Soon, an equilibrium was reached in the form of mutually- assured destruction, a progression in globalization from which

⁴ Setting the Stage for a Social Justice Agenda- Katharine Briar-Lawson, William

Roth, Blase Bonpane III, Maria C. Onetti-Bischoff, and Daniel Roth



our species is fortunate to have emerged.⁵ As awful as terrorism is, it is not the threat to the species that nuclear war might be.

The so-called spin-offs of space technology included vast augmentations in telecommunications. CNN, the BBC, Al Jazeera, and the other instantaneous news sources have amplified the power of information. Advanced satellite-born technologies have greatly enhanced reconnaissance capabilities.⁶ The coordination of all this by computers further amplifies communications and is part of what makes up globalization. Navigation has undergone a leap, and by the time of our military action in Kosovo, it prompted another revolution in warfare: it became possible to target ordinance with a new accuracy made possible by global positioning satellite systems orbiting in space. In Afghanistan, this technology was directed against Al Qaeda and Taliban positions. In Iraq, ordinance was effective on even the least productive targets—including the many palaces of Saddam Hussein. Often, special operation forces were active in lasering targets for nearly precise destruction. Among what has changed in our globalized, technological world is not only the possibility of terrorism but also the nature of war.⁷

Another change, quite different, came by way of what can best be termed an aesthetic revolution. Certainly with the astronauts and cosmonauts came a new vision of the planet. We were seen as a whole from on high. The experience of those in space was transmitted to us below: The earth is a globe, beautiful in spherical perfection. When astronauts

reached the moon, they found what could be most charitably called a desert. The globe from which they had originated looked fragile in its beauty. There was, then, something special about the earth. Often social justice is conceived of as an ethical value. However, it is not only ethical but also aesthetic. The aesthetic and environmental value of preserving our precious and beautiful globe has contributed to our modern notion of social justice.

Twentieth-century technology has been greatly augmented by computers and information, and digital technologies. Initially having ancestry in card-punch technology, mechanical devices were far too slow, and they were replaced by electronic technologies—originally relay, then vacuum tube; later, transistor and solid state; and currently, by microchips, each smaller, in a miniaturization that allows for vast increases in the power and speed of computation. Digital information is represented by tiny switch-like elements, which can be either on or off. On or off can stand for 0 or 1 or true or false. As such, information technology is closely connected to the algebra of George Boole, the symbolic logic of Frege, the Principia Mathematica of Russell and Whitehead, and additions to basic theory by Goedel, Turing, Shannon, von Neumann, and countless others⁷². Digital technology has made possible computers, efficient global transfers of capital, the Inter-net, augmentation of telecommunications allowing people to speak and see each other simultaneously, just-in-time inventories, and more.⁷³

Globalization can be thought of as a process or as an achievement—the

⁵ Supra 23

⁶ Globalization, Social Justice, and the Helping Professions- Globalization, Social

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⁷ Supra 44



achievement relatively new, the process old. As with social justice, both the process of and achievement of globalization are tightly intertwined with technology. Narrowly, technology is increasingly derived from science and directed toward instrumental goals. Broadly, technology is more akin to method and organization, both directed instrumentally. In this sense, Adam Smith's division of labor, military organization, the assembly line, the military industrial complex, much of the methodology of the human services, bureaucracy, etc., are technology. In the narrow sense, technology consists of such inventions as the clock, the astrolabe, the machine gun, the automobile, etc., and more recently the computer chip, biotechnology, nanotechnology, etc. As in the modern contemporaries, with particular reference to Pierce Irving h. Anellis hospital, university, business, and nongovernmental organization (including Al Qaeda), these sorts of technology work together and closely depend on each other. Many thinkers of substantial greatness, including Adam Smith, Karl Marx—and, in the twentieth century, Max Weber, John Maynard Keynes, Jacques Ellul, Michel Foucault, Pierre Bourdieu (and a bevy of Americans, ranging from the pragmatists to the neoconservatives) have commented on technology in the broad sense.

The commentary on broad technology has inevitably been one that has included a commentary on social justice. The commentary on the narrow notion of technology—up to, including, and after the atomic bomb— has had a curious neutrality to it. Of course, there have been exceptions. Scientists such as Albert Einstein, J. Robert Oppenheimer⁷⁴ and some other great thinkers such as Bertrand Russell immediately connected nuclear weapons to social justice. As he

witnessed the first successful nuclear explosion, Oppenheimer thought of a verse from the Bhagavad Gita, —. . . now I am become Death [Shiva], the destroyer of worlds. However, most of the commentary has been more banal. Distilled, the everyday bromide is that technology is neither good nor bad; it is only the use to which it is put that is good or bad. Such a seemingly value-free characterization of technology leaves its ultimate ethical disposition not to rationality and social justice but to profit and power. Thus, nuclear weapons are good when we possess them and bad when —they|| possess them, and the same with information technology, biotechnology, space technology, etc. As process and achievement, globalization has been furthered by both categories of technology. The nature and place of the human services and their relation to social justice cannot reasonably be thought about without also reflecting on technology.

At this juncture, it is appropriate to consider the technology of economics. Economics now claims a substantial role in public and private policy. Indeed, Sheldon Wolin laments the loss of the political to what he calls —method,|| a process increasingly economic.⁷⁶ Adam Smith clarified a new form of economic organization and critiqued an earlier form called —mercantilism|| (Smith 1979). Although sometimes regarded as a capitalist, Smith is more accurately reckoned a theorist of the market economy. Indeed, the market economy has revolutionized the globe, and it has had substantial impacts on social justice. Market economies have allowed for unprecedented growth, which arguably has made social justice in its modern form possible. But that is not all, for market economies have disturbed traditional



social organization. According to refinements in economics—such as prices being fixed by supply and demand, marginalism, and Ricardo’s doctrine of comparative advantage—some people gained less than others and some nations were forced into a production more specialized than had been the case. Factories, slums, child labor and other social problems, etc., characterized countries forced into production involving low-skilled, poorly-paid labor often found in sweatshops. This has implications for social justice.⁷⁷

As economics has evolved in the last quarter century, it has become more abstract, mathematical, doctrinaire, influential, and utilitarian—in short, an all-encompassing ideology called neoliberalism, neoclassical economics, or even post-autistic economics. In these new forms, economics has continued to serve power and is describable by the words of critics of corporate globalization and participants in the anti-sweatshop movement that swept our college campuses before 9/11. Economists have claimed that the anti-sweatshop and anti-globalization movements have proceeded in contradiction to what they know. This criticism is accurate, for what is at stake here is a claim to social comprehension, the structure of social science discipline, and social justice itself.

Despite the claims of Neo-social Darwinism, vast disparities in material benefits are violations of social justice. Such disparities are partially addressed by a welfare state. Particularly since 9/11, such disparities have sometimes been identified as causes not only of social malaise but also of a particular social malaise: terrorism. Accordingly, one solution to the problem of terrorism is the distribution of more resources from haves to have-nots, from the North to the South.

However, this view of the genesis of terrorism is too simple, terrorism has also been caused by social instability, culture, resentment and revenge, power, ideology, oppression, domination, racism, history, etc. Indeed, arguably, neoliberal economics has had a part in the impoverishment of the global South and has contributed to the issue of immigration of people from countries with other serious problems. However, to the extent that a people-centered globalization is achieved, immigration for economic reasons will become far less necessary and desirable to people who today are immigrants. What today is a thorny and provocative issue occasioning the basest of sentiments (like xenophobia) may thus become a non issue.

Neoliberal economics can be criticized on many counts. The axioms of its micro economics are counter intuitive and over simplified. It ignores historical and social context. It disguises its fallibility through arcane mathematics. It ignores the claims of sociology and psychology, never mind those of ethics and social justice.⁸⁰ It is curiously consistent with corporate capitalism. It ignores too much, including many harms to people. And yet, it can be plausibly said that it works, that it accounts for economic reality far better than other social sciences account for their piece of reality and that its infusion into policy, law, psychology, sociology, and history has had, to use an economic expression, —pay-offs.||⁸¹ This cannot be ignored. Its successes must be accounted for, either as modern economics does by saying, —That is how the world works|| or through contentions that modern economics has become an ideology, that it is artificial and must be constrained by extra economic forces, that any aberrations in its methodology somehow



even out in the end, that it is an expression of power and hence an expression of what counts, or that its account of the normal world is an example of a linkage between power and knowledge, perhaps characterized by normalization.⁸² Any one of these would be a serious charge. And it is certainly true that, in the last fifty years, alternatives to traditional economics have not been sufficiently studied nor has their study been paid for. Of course, there is some questioning, the award of the 2001 Nobel Prize in economics to economists who studied the effects of imperfect information and the 2002 Nobel Prize in the behavioral study of economics showing that perhaps economics was asking serious questions of itself.⁸³

Directive Principles of State Policy Bring Social Justice

It is very difficult for a common and indigent man to enter the shrine of justice without first shouldering the responsibility of paying a sum towards court-fees beyond his means before law would listen to him. The existing provision for exemption from court-fee for paupers apply only to extremely poor people and is of no use to the ordinary poor litigants who may be able to pay some money but not the entire cost. It has been, therefore, rightly mentioned that doors of temple of justice are open with a golden key.⁸ It must also be remembered that the mandate of:

- a) Article 38 of our Constitution, which reads as under:
"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 the National life||.⁹

The Constitution (44th amendment) Act 1978, inserted a new directive principle in Article 38 of the Constitution provides that, in particular, strive to minimize inequalities in income and endeavour to eliminate inequalities in status, facilities and opportunities, not only among individuals but also among the group of people residing indifferent area or engaged in different vocations. The new clause aims at fair wage and eliminates inequalities in various spheres of life.

- b) Article 39 specifically requires the state for securing economic justice:

If one compares the provisions of the 1966 Covenant on Social and Economic Rights (ICESCR) and Part IV of our Constitution, it would be evident, that the latter contains almost every one of the rights spoken of in the Covenant. Article 39(a) speaks of men and women equally to have the right to adequate means of livelihood. Article 39(b) distribution of ownership and control of the material resources of the community to the common good. Article 39(c), to ensure the economic should not result in concentration of wealth and means of production to the common detriment.; Article 39(d) speaks of equal pay for equal work for both men and women; Article 39(e) speaks of health and strength of workers, men and women and the measures to prevent exploitation of children. Article 39(f) directs that the children be given opportunity and facilities to develop in a healthy manner and in conditions of freedom and dignity.¹⁰

- c) Section 304 of the Code of Criminal Procedure 1973, is a right step in the direction of providing free and

⁸ Dr. Justice Jitendra Bhatt Right to Legal and is a Basic Human Right –2007_p – 69.

⁹ Article 38 of the Indian constitution

¹⁰ Article 39 of the Indian constitution



competent legal aid to the accused who are unrepresented. Section 304(1) of reads as under: "Where, in a trial before the Court of Session, the accused is not represented by a pleader, and where it appears to the Court that the accused has not sufficient means to engage a pleader, the Court shall assign a pleader for his defense at the expense of the State."²³¹Pursuant to the provisions incorporated in Article 39A in the Constitution by 42nd Amendment in 1976, a constitutional safeguard to the right of the accused to have free and competent legal assistance has been prescribed. It reads as under: "39A. Equal justice and free legal aid.-The State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.

The concept of legal aid is, rightly stated to be the spirit of equality and its movement is dedicated and devoted to the philosophy of equal justice to the indigent. Equal justice is, a fair treatment within the purview of judicial process. Equal justice is, therefore, corrective of inequalities which cause social imbalance, without which justice in society cannot be propounded in reality. Equality of law and equality before law is, an imperative provided in the fundamental right in the Indian Constitution. With a view to make this right a reality, for those largely depressed and deprived, down-trodden and destitute, dejected and rejected, forlorn and forgotten, lowly and lost, legal service has been a remedy, which is provided in our Constitution. Article 41 mentions about the right to work, to

education and to employment assistance within the limits of State's economic capacity and development; Article 42 speaks of ensuring just and humane conditions of work and for maternity relief. Article 43 speaks of provision for living wages to all workers, leisure and social and cultural activity; Article 45 directs compulsory free education for all children under 14 years; Article 47 speaks of the duty of the State, to raise the level of nutrition and standard of living of its citizens and to improve public health while Article 48A speaks of duty, to protect environment, and to safeguard forests and wild life. Many of these directions and rights have been given legislative shape by our Parliament or State Legislatures. As a result, we have various enactments covering Minimum Wages, working conditions in Factories, Mines, etc. Employees' State Insurance to take care of the health of employees and their families, for gratuity, bonus, hours of work and leisure, for land reform measures, employment schemes, measures to advance the interests of S.Cs. S.Ts. and other weaker sections, financial assistance to such sections, measures for protection of women and children, and so on. It is another matter that, in the matter of implementation, we are very much wanting. The Courts too are silent spectators. This may be open to criticism as judicial law making no doubt, but the fact is, that, it has been made and the Parliament has not tried to undo them - as it has done in some other instances. Today, therefore, it would not be correct to say, that the Directive Principles are not enforceable by Courts.

Labour law seeks to cater to the needs of industry and the workers which keep on changing. Accordingly, the law also needs to be changed, reviewed and rationalized. As per the scheme of the



Indian Constitution, labour being in the 'Concurrent list' this exercise can be carried out both the Central as well as various State Governments. Accordingly, a number of amendments have been carried out both by Parliament and various State Legislatures in many Labour Legislations in the recent past. In addition, a number of reforms have also been made by way of adopting the method of issuing notifications. This apart, recognizing the long-felt need of the industry and the workers belonging to various sectors and sub-sectors of the economy, the present government initiated a comprehensive process of labour law reforms by undertaking the exercise of codification of a large number of existing labour legislation in 4 major Labour Codes (by way of amalgamation and rationalization of the core features of the various labour legislations) i.e. (i) Labour Code on Wages; (ii) Labour Code on Industrial Relations; (iii) Labour Code on Social Security; and (iv) Labour Code on Occupational Security and Health.

Conclusion

The rights and duties coexist. Most of the country supports a right to strike to the workers. But this right shall not use arbitrarily the right to strike must be used as the weapon of the last choice because if this right is misrepresented, it will generate a problem in the industry. In India, right to protest is a fundamental right under Article 19 of the Constitution of India gives but the right to strike is not a fundamental right but a legal right and with this right statutory restriction was attached in the industrial dispute act, 1947. The term 'strike' has been stretched under the Industrial Relations Code to include within it meaning any concerted casual leave on a given day, taken by 50% or more workers employed in a particular

industry. The purpose of this extension aimed at discouraging workers from taking unexpected concerted casual leave to disrupt or stop the work at the establishment of an employer. According to the Industrial Disputes Act, it was prescribed that only in public utility services, a notice of strike needs to be given. However, under the IR Code, there is a change that workers who are employed in an industrial establishment irrespective of it being a public utility service industry or not allowed to go on a strike without giving notice within 60 days before striking or (ii) within 14 days of giving such notice; or before the expiry of the date of the strike as the case may be, specified in such notice.