

Topic - Liberty and Justice

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LIBERTY AND JUSTICE

LIBERTY

Of all the rights which are considered fundamental for the development of the personality of the individual, the right to liberty or freedom happens to be most respected and valued. In fact without liberty, i.e. without the freedom to enjoy one's rights, there can be no real right available to the people. Liberty, as such, is the most cherished and loved right of the people.

Meaning

The word "Liberty" stands derived from the Latin word "Liber" which means 'free'. In this sense liberty means freedom from restraints and the freedom to act as one likes. However, in a civil society such a meaning of Liberty is taken to be negative and harmful.

It is only in a jungle that freedom from restraints is available to animals. In a civil society no person can be really permitted to act without restraints. Hence, Liberty is taken to mean the absence of not all restraints but only those restraints which are held to be irrational.

Liberty is usually defined in two ways:

- A. Negative Liberty &
- B. Positive Liberty:

(A) Negative Liberty:

In its negative sense, Liberty is taken to mean an absence of restraints. It means the freedom to act in any way. In this form liberty becomes a license. Such a meaning of liberty can never be accepted in a civil society. In contemporary times, Negative conception of liberty stands rejected.

(B) Positive Liberty:

In its positive sense, Liberty is taken to mean freedom under rational and logical i.e. restraints which are rational and have stood the test of time. It means liberty under the rational and necessary restraints imposed by law. These restraints are considered essential for ensuring the enjoyment of liberty by all the people. In a civil society only positive liberty can be available to the people.

Positive Liberty means two important things:

- Liberty is not the absence of restraints; it is the substitution of irrational restraints by rational ones. Liberty means absence of only irrational and arbitrary restraints and not all restraints.
- Liberty means equal and adequate opportunities for all to enjoy their rights.

III. Features/Nature of Liberty:

(i) Liberty does not mean the absence of all restraints

(ii) Liberty admits the presence of rational restraints and the absence of irrational restraints.

(iii) Liberty postulates the existence of such conditions as can enable the people to enjoy their rights and develop their personalities.

(iv) Liberty is not a license to do anything and everything. It means the freedom to do only those things which are considered worth-doing or worth-enjoying.

(v) In society law is an essential condition of liberty. Law maintains conditions which are essential for the enjoyment of Liberty by all the people of the state.

IV. Types of Liberty:

(1) Natural Liberty:

Traditionally the concept of natural liberty has been very popular. Natural liberty is taken to mean the enjoyment of unrestrained natural freedom. It is justified on the ground that since man is born free, he is to enjoy freedom as he wills. All restraints negate his freedom.

However, the concept of natural liberty is now considered to be an imaginary one. There can be no real freedom in a state of nature or a 'jungle society'. Unrestrained freedom can create anarchy. It is only in an orderly society characterized by essential restraints based on laws and rules that real liberty can be possible. Natural liberty can lead to a living based on the evil principle of 'might is right' or the 'rule of muscle power.'

(2) Civil Liberty:

The liberty which each individual enjoys as a member of the society is called civil liberty. It is equally available to all the individuals. All enjoy equal freedom and rights in society. Civil liberty is not unrestrained liberty. It is enjoyed only under some restrictions (Laws and Rules) imposed by the state and society. Civil Liberty is the very opposite of Natural liberty. Whereas Natural Liberty denounces the presence of restraints of any kind, Civil Liberty accepts the presence of some rational restraints imposed by the State and Society. Further, Civil Liberty has two features:

- **State guarantees Civil Liberty:**

Civil liberty means liberty under law. Law creates the conditions necessary for the enjoyment of liberty. However, it refrains from creating obstacles in the way of enjoyment of liberty by the people. It protects liberty from such

obstacles and actions of other men and organisations as can limit the equal liberty of all. The Laws of State imposes such reasonable restraints as are deemed necessary for the enjoyment of liberty by the people.

- **Civil liberty also stands for the protection of Rights and Freedom from undue interferences:**

Civil liberty involves the concept of limiting the possibilities for violation of the rights of the people by the government. This is ensured by granting and guaranteeing the fundamental rights of the people. It also stands for providing constitutional and judicial protection to rights and liberty of the people.

(3) Political Liberty:

Good and adequate opportunities for using political rights by the people are defined as political liberty. When the people have the freedom of participation in the political process, it is held that they enjoy political liberty.

Political of liberty involves the freedom to exercise the right to vote, right to contest elections, right to hold public office, right to criticize and oppose the policies of the government, right to form political parties, interest groups and pressure groups, and the right to change the government through constitutional means.

(4) Individual Liberty/ Personal Liberty:

Individual liberty means the freedom to pursue one's desires and interests as a person, but which do not clash with the interests or desires of others. The freedom of speech and expression, freedom of residence, freedom of movement, freedom of conscience, freedom of tastes and pursuits, freedom to choose any profession or trade or occupation, the freedom to enjoy the fruits of one's labour, the right to personal property, the freedom to profess or not to profess any religion, and

freedom to accept or not to accept any ideology, all fall under the category of individual freedom. However, all these freedoms are to be exercised in a way as does not hinder the equal freedom of others as well as does not violate public order, health and morality.

(5) Economic Liberty:

Laski defines economic liberty as freedom from the wants of tomorrow and availability of adequate opportunities for earning the livelihood. It stands for freedom from poverty, unemployment and the ability to enjoy at least three basic minimum needs — food, clothing and shelter. Laski writes, **“Economic Liberty means security and opportunity to find reasonable significance in the earning of one’s daily bread”**.

Economic Liberty can be enjoyed only when there is freedom from hunger, starvation, destitution and unemployment. Positively, it means the availability of the right to work and adequate opportunities for earning ones livelihood. Without fair economic liberty, political liberty becomes meaningless. When the people are not free from the fear of hunger, starvation and destitution they can never think of enjoying their rights and freedoms.

(6) National Liberty:

National liberty is another name for independence of the nation.

It means complete freedom of the people of each state:

- (i) To have a constitution of their own,
- (ii) To freely organise their own government,
- (iii) To freely adopt their policies and programmes,
- (iv) To pursue independence in relations with all countries of the world, and
- (v) Freedom from external control.

(7) Religious Liberty:

It means the freedom to profess or not to profess any religion. It means the freedom of faith and worship and non-intervention of State in religious affairs of the people. It also means equal status of all religions to freely carry out their activities in society. Secularism demands such a religious freedom.

(8) Moral Liberty:

It means the freedom to act according to one's conscience. It stands for the liberty to work for securing moral self-perfection. Freedom to pursue moral values is moral freedom.

Thus, when one demands the right to liberty one really demands liberty in all these forms.

SOME ESSENTIAL SAFEGUARDS OF LIBERTY:

1. Love for Liberty:

Only when people are strongly in love with their liberty, that liberty can be really safeguarded. Liberty needs continuous attempts on the part of the people to defend their liberty.

2. Eternal Vigilance:

The commitment of the people to defend their liberty and their full alertness against any encroachment of their liberty is the second most important safeguard of liberty. "Eternal vigilance is the price of liberty."

3. Grant of Equal Rights to All:

For safeguarding Liberty, it is essential that there should be no class of privileged persons in society. Liberty can exist only when equal rights are granted and guaranteed to all the people without any discrimination.

Grant of special privileges and rights to any class is always against the spirit of liberty. However, grant of some special privileges to the deprived sections of society (Protective Discrimination) is deemed just and essential.

4. Democratic System:

Establishment of a democratic system is an essential safeguard of liberty. Both liberty and democracy are supplementary to each other. We cannot conceive of a democracy without the presence of civil, economic, political and individual liberty. Likewise, in the absence of the right to freedom there can be no real democracy.

5. The Rights of one should not be dependent upon the will of others:

Laski suggests that the state must ensure that rights and freedoms of some people should not be dependent upon the will and happiness of others. The rulers and ruled should both be under the rule of law.

6. Fair Governmental Action:

For safeguarding Liberty, it is essential that the government should exercise unbiased and impartial control over every section of society. It must act as a responsible transparent and accountable government.

7. Protection of Fundamental Rights:

One of the key methods of safeguarding liberty is to incorporate a charter of fundamental rights and freedoms in the constitution of the State. Along with it, judicial protection should be given to rights.

8. Independence of Judiciary:

Judiciary should be assigned the responsibility to protect all rights and freedoms of the people. For discharging such an important function, the judiciary must be made independent and fully empowered.

9. Separation of Powers:

Separation of powers should be secured between the legislature and executive. Judiciary should be totally separate from these. Any concentration or combination of these powers can be dangerous for Liberty

10. Decentralisation of Powers:

For safeguarding liberty against possible dictatorship/ authoritarianism, it is essential that decentralisation of powers should be affected. The power of the government, particularly its executive branch should be distributed among a number of organisations and these should be located at all the three levels of government-local, provincial/ regional and national.

11. Rule of Law:

All the people should be under the same laws and bound by same types of obligations. No one should be above law.

13. Economic Equality:

Equitable and fairer distribution of income, wealth and resources, and adequate opportunities for livelihood are essential safeguards of Liberty. Without economic equality, there can be no real enjoyment of liberty.

14. Well Organized Interest Groups and Non-government Organizations:

One very essential safeguard for Liberty is the presence of well-organized interest groups and non-governmental organizations or voluntary social service organizations i.e. Civil Society. Such organizations can act untidily for fight all violations of liberty.

JUSTICE

Justice is a complex concept and touches almost every aspect of human life. The word Justice has been derived from the Latin word Jungere meaning ‘to bind or to tie together’. The word ‘Jus’ also means ‘Tie’ or ‘Bond’. In this way Justice can be defined as a system in which men are tied or joined in a close relationship. Justice seeks to harmonise different values and to organise upon it all human relations. As such, Justice means bonding or joining or organising people together into a right or fair order of relationships.

In other words, Justice means securing and protecting of rights of all in a fair way. It stands for harmony among all the people, orderly living and securing of rights of all in a just and fair way.

Key Features of Justice:

1. Justice is related to mutual relationships of persons living in society.
2. Justice is based on values and traditions of society.
3. Justice is related to all aspects of human behaviour in society. Laws are made and courts are set up with this aim in view.
4. Aim of Justice is to provide equal rights, opportunities and facilities to all in a fair way.
5. The function of Justice is to harmonise individual interests with the interests of society.
6. Justice is a primary value and it is inseparably related to other values like Liberty, Equality and Property.

7. Justice is the principle of balancing or reconciling human relations in society in such a way as enables each one to get his due rights, towards and punishments.

TYPES OF JUSTICE:

Justice has several dimensions: Social Justice, Economic Justice, Political Justice and Legal Justice.

1. Social Justice:

Social Justice is taken to mean that all the people in a society are to be equal and there is to be no discrimination on the basis of religion, caste, creed, colour, sex or status.

In the Indian Constitution several provisions have been provided with a view to secure social economic and political justice. Untouchability has been constitutionally abolished. Every citizen has been granted an equal right of access to any public place, place of worship and use of places of entertainment.

2. Economic Justice:

Economic justice demands that all citizens should have adequate opportunities to earn their livelihood and get fair wages as can enable them to satisfy their basic needs and help them to develop further. The state should provide them economic security during illness, old age and in the event of a disability.

No person or group or class should be in a position to exploit others, nor get exploited. There should be fair and equitable distribution of wealth and resources among all the people. The gap between the rich and the poor should not be glaring. The fruits of prosperity must reach all the people.

3. Political Justice:

Political justice means giving equal political rights and opportunities to all citizens to take part in the administration of the country. Citizens should have the right to vote without any discrimination on the basis of religion, colour, caste, creed, sex, birth or status. Every citizen should have an equal right to vote and to contest elections.

4. Legal justice

Legal justice has two dimensions-the formulation of just laws and then to do justice according to the laws. While making laws, the will of the rulers is not to be imposed upon the ruled. Laws should be based on public opinion and public needs.

Justice in the legal sense requires the following conditions:-

- A. Just and reasonable non- discriminatory laws.
- B. The administration of justice by free and independent courts.
- C. Inexpensive judicial process.
- D. Court procedure should be simplified and avoid delay in justice.
- E. There should be a Rule of Law in the country.

Conclusion

We can conclude that justice is concerned with human welfare and the protection of reasonable interests. It can be experienced only when each citizen will perform his duties in right perspective. A just society is that society where every individual gets legal, political, social, economic justice. For every just society there should be a proper combination among equality liberty and justice as there is a close mutual relationship among them.