

2. The irony, however, is that such a dualistic system is by its very nature inequitous. Therefore if we see the above plea for equity and justice in the broader context of national economy, it will mean a plea merely for sharing of non-justified benefits of an inequitous system. Secondly, even after the policy of equitable sharing is implemented with full responsibility and honesty, it will benefit only a small segment amongst the weaker sections of our society. And here is an extremely regrettable aspect of this scheme. If the system continues as it is, the burden of deprivation and exploitation will continue to increase and will, to a large extent, fall on the members of the same community, bulk of whom happen to be located in the lowest stratum of our system. In this way, a highly anomalous situation is being created. This partnership in injustice in the name of justice acquires appearance of justice. But by the same token in such a milieu, not only

Only then the system can truly be considered to imbibe the spirit of the Constitution implicit in the protective provisions and the right to equality. remain confined only to reservations in services but must extend to all segments of national life. organised modern sector. The real partnership in the grand procession of development cannot get an equal opportunity and honourable position in both the segments, particularly in the in the earlier report so to ensure that the members of the Scheduled Castes and Scheduled Tribes is looking at it with fond hope. It was in this context that I had made extensive recommendations different segments are getting established exactly in the same fashion. The modern organised sector is the leading sector of our developing economy. Therefore all eyes are set on it and everyone lower segment. Consequently even amongst the Scheduled Castes and Scheduled Tribes, two prised the upper segment of this system while the traditional unorganised sector comprises the that a dualistic system is getting established in our country. The modern organised sector comprises Scheduled Tribes in broad terms. In that report one major aspect which came to the fore was report, which was my first report, I had reviewed the situation of the Scheduled Castes and and Scheduled Tribes under Article 338 of the Constitution for the year 1987-89. In the last I am presenting herewith the Twenty-ninth Report on the condition of the Scheduled Castes

(THROUGH THE UNION MINISTER OF STATE FOR WELFARE)

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ignoring broader issues of justice and equity but even opposing the same also tend to be justified. Therefore unless the question of equity and justice is considered from the perception of the people located at the lowest rung of our society, which accounts for bulk of the members of the Scheduled Castes and Scheduled Tribes excepting a small section who have joined the organised sector, the safeguards in the Constitution for these communities will remain, more or less, meaningless.

3. The life of the vast majority of our people is linked with three elements, viz., the right over resources, the right over means of production and the entitlement for labour. These aspects unfortunately have either not been properly discussed or, in case there is some discussion, it is mostly superficial. The reason is that the moment such issues are seriously considered, the very foundation of the vested interests, which are flourishing in the name of modernity, progress and development, gets shaken. But these are the questions which are crucial for the welfare of the members of the Scheduled Castes and Scheduled Tribes. And what is more, they are also crucial for the quality of national life, basic principles and human values. It is in this context that I had decided to undertake a special review of the national scene with regard to these three elements. The present report and the previous one taken together in a way make for a comprehensive frame. This frame can provide the basis for a life of honour and dignity for all members of the Scheduled Castes and the Scheduled Tribes. Moreover the frame can also become the frame for establishment of a social order imbued truly with the ideals of equity and justice.

The Three-tiers in National Life

4. The situation in our country with regard to the establishment of an appropriate system and suitable milieu for enabling the common man to lead his life with honour and dignity is rather unhappy. The polarisation in our national economy is becoming increasingly sharper. On the one end we have the carefree setting of the modern organised sector. The moment a person steps in this sector, he is free from all worries about his ordinary living for all times. In that worryless life, the only worries are how to retain one's position, how to get as large a share in the comforts and luxury-goods characteristic of that sector and how to somehow move along the high tide of so-called development. On the other extreme is located the unorganised traditional sector. The question before the ordinary people here is that of just two square meals. The only wish of those people, however, in this sector who command the resources and also those who understand the new world, is somehow to join the modern sector, or else to amass similar artifacts of comforts and luxury there itself. Therefore, the general scenario in this sector is that of strife, loot and raw struggle for existence.

5. In this milieu, the growing centralisation in our economy is adding fuel to fire. Whatever is left with the ordinary people is being snatched away from this side is getting accumulated at the other end. In this way not only a dualist but a three-tier structure is getting consolidated comprising, India, Bharat and 'Hindustanva'. The bulk of the members of the Scheduled Castes and Scheduled Tribes are included in this lowest tier of Hindustanva.

6. It is clear that this process in our national life is not in keeping with the intention of our Constitution. It is also against the declared principles. But then how is it happening? I have tried to look into this question in some detail with a view to find a possible solution. There are two basic aspects—one concerns the texture of our legal structure and the other is related to the paradigm of development. So far as the paradigm of development is concerned, we have accepted the path adopted by the western countries as the ideal. Moreover, in a hurry for development

we have accepted the questionable premise of "development first" and given social equity a secondary position. In this approach an important fact of the global system was overlooked that the "dustbin" of a third world was a necessary concomitant of the process of development in the first and the second worlds. In the same continuation, the third world now requires a 'dustbin' of "fourth world". Today in our country Hindustanva has become that very dustbin of development.

Dissonance between Law and Constitution

7. The present system is patently inequitous. But unfortunately our legal structure has also proved to be its compeer. The warp and weft of our legal system was broadly set during the British period. The basic premises of the system established by the British were those of their own society and its objective was to strengthen the foundations of their empire. The people were subject and the system was a symbol of the Raj. After independence we prepared and adopt a Constitution dedicated to the establishment of a socialist society based on our own traditions and basic human values. But the structure of the system, over which this crown of Constitutions was placed, was totally dissonant with its basic spirit. This dissonance not only continued in the coming years but the situation became still worse. Firstly, the nascent ruling elite came to relish the old system. Secondly, in the hurry for development the incongruities were first ignored and later on they were accepted even as necessary for the maintenance and advancement of the new system. There was yet another important reason for the continuance of the incongruous situation. The law and the rules are concrete and functional while values are abstract. The latter are generally a good subject of thought and discussion which by itself can be a matter of satisfaction. Consequently big mountains of violation of Constitution and human rights could remain hidden behind the small straws of the legal frame.

Right to Life

8. The most sacred and primary amongst all human rights is the right to life. The right to life does not only mean the right to bare animal-level subsistence; it really means right to live with human dignity. And two crucial elements for a life with dignity are personal liberty and adequate means of livelihood. The form of these elements in real situations can be quite different depending on the specific economic and social situation. For example, in the modern sector they comprise what are known as the fundamental rights. But when it comes to the tribal people, who are located on the other end of the spectrum in the traditional sector, these formal principles in the present context have no meaning. In their situation a self-governing system based on their own tradition and within the understanding of the ordinary people is essential for enjoyment of these rights in the real sense.

9. The situation in relation to appropriate means of livelihood is very complex. Moreover numerous anomalies have plagued the system. So far as the adequate means of livelihood in the organised sector is concerned the formal form is dominant. Every member of this sector has a specified position and whatever the role of that person, irrespective of its utility or non-utility for life he not only can claim due entitlement just by virtue of the membership of the organised sector but can also openly claim entitlements which are not really justified. But in the case of unorganised sector no body is sure about what a member of that sector will finally get. And the situation of each member in the sector may be quite different. Nevertheless it can be said that broadly command over resources, ownership of means of production and due entitlement for labour are three such elements which together determine the situation of an individual and also the community with regard to the appropriate means of livelihood.

10. Thus, there are five elements which are necessary for life with dignity, self-management at the community level, command over resources by the community, ownership of production by the worker, equitable entitlement of labour and personal liberty. These are the basic rights for the human society. These are also the soul of a democratic system. These values have been enshrined in our Constitution in unequivocal terms.

... *And Its Denial*

11. Even though the position about the right to life in the Constitution is crystal clear, yet so far as the right to life of the common man is concerned, it is not only being ignored in practice but is being blatantly violated. The main reason for this situation is that during the British period the natural resources were accorded the status of property under the law rather than being recognised as the basis of life of the people. The irony is that even after the right of property was removed from the list of fundamental rights and in the face of clear enunciation by the Courts about the real intent of the right to life enshrined in the Constitution, the legal frame in that regard in practice remained unchanged in its original colonial form. That is why there is a direct clash at almost every step in the national life between the Constitutional and human right of right to life of the common people and the legal right of property of the more powerful groups. It can be said that in the inequitous distribution of resources during the British period the state and a group of selected people along with the state become the owners of all natural resources including land. But by the same token the common man, who was using those resources for making a living through the ages was deprived of his natural right to make a living from them. This process unfortunately has become still more stronger after independence.

12. In view of this denial of the basic right to life, a big question arises about the nature of responsibility of the state itself. After all in our Constitution the State has been given a special responsibility in relation to social justice. Then how is this all happening? To answer this question we will have to review the different roles of the State in the complex modern situation and the priorities adopted by the State in that regard. The State can broadly be said to have three primary responsibilities, viz., law and order, protection and development. In the anxiety to maintain order and in the hurry for development as also in the dazzle of its glitter, the dark lanes of the State's responsibility for protection of the poor, particularly the Scheduled Castes and Scheduled Tribes, have been often forgotten. Moreover there is no hesitation in supporting the vested interests entrenched in the old as well as the new structures under the cover of policies, principles and laws and even in striking against those whom the State is expected to protect. In some areas, it appears as if law, Constitution, human rights and state's responsibility are all non-existent. This is the biggest irony of our national life which I have tried to present in this report.

13. This phenomenon is an integral part of the inhuman processes of deprivation and destitution which has been continuing for ages. But its scope became much wider and its intensity much higher during the British period. A careful review of the present situation clearly brings out five levels of deprivation, viz.—(i) non-recognition of rights over resources and restrictions on their use, (ii) Alienation of worker from the means of production, (iii) denial of due entitlement of labour, (iv) bartering of personal liberty and finally (v) the psychological state of accepting deprivation and destitution as justified and proper and demise of self-respect and dignity. It is unfortunate that the processes of deprivation have not only continued at all these five levels throughout our national life, with the bare exception of the organised sector, but at many places it has become much more intense. It will be necessary to start our review with the last level.

14. The honour and dignity of a person is dependent on his work, his right over means of production and his right to manage the system. The condition of the members of the Scheduled Castes and Scheduled Tribes on all these counts was deplorable from the very beginning. Hard work fell in their share while command over resources was enjoyed by others. But after independence these people were rendered still more helpless and vulnerable in the face of unholy collusion between the system and the more powerful groups. Firstly, whatever means of production had remained in their hands are also gradually slipping through their fingers. Secondly, there is also a state of near lawlessness in the villages. In this milieu, the remaining resources of the village community are being commandeered in some cases by the stronger people of the village in some other cases by small and big companies and finally in some cases by the State itself ignoring the fact of dependence of the people on those resources for their living and their traditional rights. Who cares and who knows where these people should go? In this raw struggle for existence prestige and dignity for the ordinary people are at best images of a dream world.

15. The biggest irony with regard to dignity and prestige of a people in our country is that the condition of the tribal communities, who are most conscious about self-respect and honour, is the worst. These communities have become completely helpless in the face of the omnipotent system on account of the 'criminalisation' of their social and economic system itself, denial of their rights over resources and non-recognition of their traditional self-governing systems. The forests are the property of the State; therefore it is an offence for the tribal, who has been living in those very forests for the ages, to make a living from these forests. His very presence in the forest is against the law. If a tribal enters the forests with his bow and arrows, it is an offence. If his cattle as usual graze in the forest, they are taken to a kine house. If he takes his traditional brew after worshipping his Gods or in social functions according to his tradition he still becomes a law breaker. He is branded as an offender in all matters concerning his social and economic life only because the law is against him. The criminalisation of the entire communities in the tribal areas is the darkest blot on the liberal tradition of our country.

16. And the saddest thing is that all this has happened and is happening in the name of principles, claiming authority from the Constitution and the law. That is not all. This is being done by a system, which considers itself to be a symbol of justice, rationality and modernity. Those who have been given the responsibility under the Constitution for correcting this anomalous situation have almost no realisation about that responsibility. The first attempt of the System ordinarily is to assert its own position as right and to prove that the others are on the wrong. It is expected that the tribal society should change and adapt itself in accordance with the frame of the modern system. And finally, an attempt is made to convince the people that this is what development really is!

17. Thus, firstly no action has been taken to correct this basic anomaly and even if some action is initiated, one can never be sure as to where it might get stuck. The result is that today there is a state of confrontation in almost all the tribal areas. In this connection I have reviewed in some detail the Excise Policy in the tribal areas. There are clear policy guidelines of the Central Government in this matter. But even after 16 years of their issue they have not been adopted in full by any State so far. Even where they have been adopted, something or the other gets incorporated at some stage of implementation or the other such that the basic spirit of those guidelines cannot be realised. Moreover when people demand implementation of the policy guidelines, they have to face the wrath of the system.

18. I have discussed the issue of Excise Policy in some detail because this issue touches the personal and social life of every tribal. In this case even when a tribal strictly follows the social norms of his community he breaks the law, he is an offender before the law and legal action can be taken against him. Can there be a more regrettable situation than this? Any law in the tribal areas, which makes the social tradition of the tribal people a criminal act, is against the spirit of the Constitution. If social prestige and personal dignity in the tribal areas are to be upheld all these legal anomalies must be done away with immediately.

Entitlement of the Common Man

19. The biggest question in relation to the right to life is the entitlement of the common man for his labour input. What can be the meaning of honour and what can dignity signify to a hungry person? The present situation in this regard is unjust. The members of the organised sector first take away from the gross national product what they consider is due to them on the basis of highly inflated and arbitrary entitlements. The members of the unorganised sector have to be content with whatever is left thereafter. The fact is that not even proper valuation has been made of the work of ordinary labourers outside the organised sector including the farmer. It is an irony that the agricultural labourer in our agricultural country whose work is the most skilled, the most arduous, and whose working conditions are the most difficult has been graded as an unskilled worker. This is also the case with other workers in the unorganised sector. Their skills are deemed to be 'non-skills' and their knowledge as 'ignorance'. And all the skilled workers in the traditional sector are gradually becoming a motley crowd of unskilled people, a process which was set in motion as a part of imperial design during the British period. In the case of most of these workers, deprivation has reached the ignominious level of 'biological exploitation', which is not even alluded to.

20. I have referred to in my last report the unconstitutionality of the dualistic system in the determination of wages and salaries for the organised and the unorganised sectors. But this serious constitutional issue has not been even discussed so far in any forum. This duality is at the root of inequity in our country. If the question of justice for the common man is considered in the real sense, then the first step will inevitably have to be equitable determination of wages of the agricultural labourer. It will directly lead to a substantial rise in the price of agricultural commodities. In the end, it will boost the entitlements of all workers in the unorganised sector. Thus a new relationship will be established between the organised and the unorganised. The natural outcome of this process will be that the entitlements of people belonging to the organised sector at the other end will be significantly reduced compared to what they are enjoying today. The members of the organised sector will not easily accept this new deal. But this simple logic and this stark reality about injustice in our national life have to be got accepted by them whether they like it or not. Or else, how can the common man expect to get justice without changing such glaring unjust relationships in our national economy?

21. This is the plain reality about our economic structure. If this reality is ignored it will not possible even to present the correct analysis of our national problems. And if the disease itself is not correctly diagnosed how can we expect a real cure? For example, from analysis presented in the report it is clear that there is no unemployment in our country. The reality is one objective, that is, to extract maximum work from the ordinary man with a minimal wage which may be just sufficient for his bare physical survival so that he can contribute his bit until his limbs can move and in the end he is obliged to withdraw from the stage after providing a

25. The most basic question about land concerns entitlement of the tiller of land. Even though the right of the tiller on the land the tills has been accepted in principle in our country, yet in reality his position is the weakest. In my previous report, I had made extensive recommendations with a view to give the principle of 'land to the tiller' a real form. In this context, unfortunately the position at the moment is that it is not even certain that

24. In many areas, particularly where industrial complexes are being established, there is a state of near lawlessness. The case of Sonbhadra in U.P. is extremely regrettable; the area is witnessing open loot in the name of settlement. The instructions of government and even decisions of Courts are unable to protect the tribal lands. Unless there is a basic change in the present system such that all matters concerning land are decided in the open, in the presence of village people, the tribal people cannot get justice. To leave the entire tribal community at the mercy of an outside formal system in matters concerning land, which is the only basis of their life, is patently unjust and in violation of Constitutional safeguards. A people's movement has been launched on this issue in Sonbhadra. The demands of the people in this vital matter must be conceded. In fact, that proposition should be accepted as the norm for preparation and maintenance of land records for all tribal areas in the country.

23. Most of the members of the Scheduled Castes and Scheduled Tribes are dependent, in some way or the other, on agriculture. But their condition with regard to the rights over land everywhere is very regrettable. The biggest muddle in this regard has been in the tribal areas, which is continuing even now. Firstly, in many areas there are no authentic papers. Therefore, the position about land such as the size of holding, its precise location, is not properly recorded. Secondly, the laws are much too intricate which are beyond the understanding of the people. According to the present law, any land which is not recorded in the name of an individual is deemed to belong to the state. Therefore the government can do whatever it likes with regard to such lands. On the other hand the ownership, in a way, is bestowed automatically in the favour of a person the moment his name is entered in the records in an appropriate column. The outsiders have taken full advantage of these legal stipulations. Today not only the record is against the people, the entire system is against them. The correct information about cultivation, ownership, etc., concerning land is available only in the village, yet all disputes about land are decided in Courts outside. It is well-known that a simple person has no hope of getting justice there. But he cannot do anything, he is utterly helpless.

Rights over Means of Production

22. The members of the Scheduled Castes comprise a substantial segment amongst the workers in the unorganised sector. In the present situation when the members of the Scheduled Castes do not have anything which they can call their own except their labour and their skills, their struggle for entitlement for their labour is the real struggle for justice; it is also a struggle for the right to life. The first step for social justice in this context has to be due recognition of the skills of the agricultural labourers and conferral on him the status of skilled worker. Moreover his wages should be fixed in accordance with the principles accepted for organised sector such that his wife and children are not forced to go out of their homes in search of work and as a respectable citizen he can also maintain his family with his own earnings.

"substitute". It is here that deprivation in our country descends to the abysmal level of biological exploitation.