

CHAPTER - IV

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THE CONCEPT OF WELFARE STATE

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The concept of social justice is an ideal which can be achieved if conditions of the social organization permit the authorities to adopt the necessary measures to secure the ideal. Hence, the legal and Constitutional character of the state contributes a lot to the attainment of the ideal of social justice. If the state is founded upon the idea of the welfare of the people then the authorities are duty bound to implement the idea of welfare and thus achieve the idea of social justice. In other/<sup>words</sup> a welfare state can provide the means for the attainment of the ideal of social justice. In view of the importance of the idea of Welfare State in the social setting it is necessary to know something about it Welfare State; what it means? how it has originated? what factors are responsible for the growth and development of this idea and what is the role of law and justice in such a state?

I. THE MEANING & DEFINITION OF WELFARE STATE :

The term 'welfare state' has been variously defined. Some say it is more a confused term than an understood concept. Some attribute that it gives something for nothing, some argue that it is in the throes of development. Though there is no common agreement on the usage of the term 'welfare state' it has been changing from time to time and from country to country depending upon the socio-political and socio-economic exigencies.

From the nomenclature of each state itself, it can be gauged that a welfare state is different from any or each of the following :

- i) Night Watchman state;
- ii) Laissez faire state.
- iii) Police State.
- iv) Social Service State.
- v) Totalitarian State.
- vi) Nazi State.
- vii) Socialist State.
- viii) Negative State; and
- ix) Democratic State.

The most revered Father of the Nation also in a different tone and tenor says, "Sarva Udaya" is not only material prosperity but spiritual good. Coming later, the greatest India's living welfare - idealist and welfare - saint and the propounder of 'Bhoodan Movement' acclaimed world over for his benediction to the poor, in almost synonymous terms says: 'Sarvodaya is allround well being of all; may all be happy'.

The underlying idea of the above is charity and help in some form the other. Therefore, in a welfare state it is the sole idea of individual charity which transforms itself into public responsibility where the recipient does not feel the stigma of pauperism.

## II. THE SALIENT FEATURES OF A WELFARE STATE :

A welfare state is regarded as a system wherein a minimum social responsibility for certain minimum standards of individual and communal welfare are set. In this grandeloquent design a progressive pattern of society is generally and deservedly envisioned. In that design or process of its perennial evolution it encompasses various diverse illustrious stages like a Laissez Faire state, Totalitarian State, Police State, Social Service State, Social State, Communist State and a totalitarian state etc.

These evidently declare that variegated functions devolve on the state; from the maintenance of law and order to the protection from foreign invasion, liberty of individual to be secured, nationalisation and nation-building programmes, building up private initiative, intuition drive and enterprise etc.

For a welfare state committed to the high ideals of Justice, Liberty and Fraternity, a democratic form of government is most suitable, proper and meaningful to garment the individual with the virtues of liberty, freedom, justice and equality of law and equal protection of law.

A welfare State undertakes to create a moral and intellectual climate for its people as a whole. The scope of State activity is extended to subserve the general and basic needs

of the citizen, i.e., his need for food, shelter, work, leisure and the like. It is immaterial if the activities of this nature tend to affect the profit motive of private individuals. The distinction of public or private ownership does not stand in the way of the positive role which the State has to play. Reasons are, therefore, advanced in favour of the State's control over transport and communication, educational recreation, libraries and museums and even parks and other places of public utility. State investment is allowed on items for which private investment is lacking. The State can own or acquire such industries which are ill-managed. Even State monopoly in certain trades to the total or partial exclusion of private persons may be felt desirable, if necessary, in the public interest. State monopoly is advocated on the ground that unregulated capitalism tends to retard healthy competition and is likely to create an overgrowing concentration of wealth which generates class conflicts posing a threat to public peace.

A welfare State has to protect the general social interest in all possible ways. The legislative policies of the State are, hence, directed towards this objective. An elaborate emphasis is given to the immediate social problems. The welfare state works on an empirical and pragmatic criteria to judge each social issue on its merits by affording a most practical solution to the problem in hand. Social welfare is a programme launched to solve all social problem. The solution of social problems will automatically bring about social justice.

Social welfare and social justice are, therefore, not equivalent or synonymous expressions. Social welfare is a measure while social justice is an achievement. Social welfare is the means and social justice is the end.

In the modern political thought, democracy is preferable to any other form of Government. A republic is further preferable to autocracy or aristocracy. The end of democracy is liberty but the end of republic is equality. Democracy creates conditions for the liberty of the individuals. The republic enforces conditions for equality both of status and of opportunity in the socio economic field. A theory composite of the democratic and republican principles represents the compound State known as a democratic republic. A republic, therefore, stands for liberty and equality both. Since a democratic republic fulfils the needs of society by turning its legislative process to regulate socio-economic matters, it is also known as the welfare State - a State that strives to secure the welfare of the people by establishing the essential conditions of good living. A welfare state shall endeavour to secure, by suitable legislation or economic organization or in any other way, to all workers agriculture, industrial or otherwise, work a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities. For this purpose, the State activity can extend, if need be, to the right of interference in production, labour welfare, taxation for social uplift, price, regulation on commodities,

social insurance, employment, agriculture and the like. The welfare aspect of the State is not confined to a class of the poor or rich, of owners or workers, but spreads to the society as a whole, especially to those who are deprived of the basic conditions of good living, whether by their own deficiencies or by operation of defective laws or prevalence of social dogmas. It is therefore incumbent upon the State to promote with special care the educational and economic interests of the weaker sections of the people, of those who are socially and economically backward, of those who are physically or mentally handicapped. It is also the duty of the State to take care of children and women to protect them from social injustice and all forms of exploitation.

The doctrine known as the *laissez faire* had dominated, in thought and practice, the whole of the eighteenth and part of the nineteenth centuries. But it was soon realised that if the means of production and distribution were left in the control of each one as he pleased, the process would soon result in concentration of wealth in a limited few to the material and economic detriment of others without there being a regulated social control over the means of welfare of the people in general. In recent years, therefore, there has been a movement away from *laissez faire*. The movement has adopted different ways of theorization as also different means of its realization and has developed into various creeds, their votaries being described by different names, such as socialists, communists, radicals,

collectivists, syndicalists, liberals, democrats, etc.

They hardly represent a common or combined efforts and their organizations have no conformity to one single ideology. The characteristic common to them is a belief, dogmatic or pragmatic, in the need of social dominion over the means of production and distribution. This social dominion is over the means of production and distribution. This social dominion, to some means the total control, while to others it means only a regulation by laws. It is the common belief of all that whether it consists in total control or partial regulation, it can be brought about by State activity. The most popular and easily understood expression to represent this sort of State activity is 'social welfare.'

The term 'Welfare State' is used roughly to describe a society which possesses all or some of the following characteristic :

- i) an all embracing scheme of social security against normal risks and hazards of life such as accidents, sickness, unemployment, old age, etc. ;
- ii) provision of a number of free services by the State such as free primary education, free medical aid, etc. ;
- iii) the maintenance of full employment for the working force of the country whatever the cost may be; the

- State takes the responsibility of providing jobs for all able bodied workers willing to work;
- iv) fair degree of equality of incomes and opportunity, for all citizens based upon redistribution of taxation and beneficence of public expenditure; and
  - v) the public ownership of utility services and basic industries.<sup>1</sup>

The Welfare State is identified with the improvement of the conditions of life physically, mentally, emotionally, economically and politically, of socially handicapped individuals or otherwise disadvantaged individuals or groups. The ultimate aim is to provide social security for all which includes social assistance in some free services and social insurance i.e., some benefits on a contributory basis. Among the economic advantages of the welfare state may be mentioned equality, social security, economic democracy, full employment and so on. There are political advantages too e.g., social contentment and dignity of the individual.

### III. ORIGIN OF THE CONCEPT OF WELFARE STATE :

The term 'welfare state' has its origin in the term 'WHOL FARR STAAT (Welfare State). It probably looks back to 'welfare budget of 1909' and owes something to German

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1. Leibenstein, H., Economic Backwardness and Economic Growth.

'Whol Fahr Staat' of the same period. American conservatives in United States used welfare measures in Roosevelt regime in 'New Deal' and brought into operational welfare measures like National Assurance, National Insurance, and National Health Service etc.

According to Robson the origin of welfare state is from these sources :

From French Revolution came the ideas of liberty, equality and fraternity;

From Utilitarianism came the ideas of the greatest happiness of the greatest number;

From Bismark and Beveridge came the ideas of social insurance and social security;

From Fabian socialists came the ideas of public ownership and basic industries and essential services;

From John Maynard Keynes came the doctrines controlling trade cycles and avoiding mass employment;

From Sydney Bestrico Webb came the ideas banishing poverty, and introducing the industrial democratic role of Trade Unions and cleaning base of society.

From Titmus and Hobhouse and Leonard came various other ideas.

Against the background of various social problems and conditions Great Britain became the foremost pioneer of welfare state measures in its efforts to solve its practical problems. It is for this reason Maurice Bryce says 'Welfare State is a practical answer to the British problems of industrial development and mass society. Under the Poor Law "all able-bodied compulsorily had to work and the aged, sick and children were to be provided for, out of compulsory tax which was to be levied by Parish Overseers. The poor were classified into three categories :

- i) Poor by defect (such as impotency, descrepit etc.)
- ii) Poor by casualty, and
- iii) Thriftless Poor.

Vagrancy was punished. The rogues and able-bodied were given jobs or else they were in 'danger of the statute of the poor' to be whipped.

#### IV. THE FUNCTIONS OF A WELFARE STATE :

The primary functions of a welfare state are :

- i) To afford equality of opportunity;
- ii) To afford basic standards of living;  
in keeping with human dignity to all;

Whatever their station in life and the social system, and within a democratic framework and within a world at peace.

The Welfare State is mainly concerned with promoting an allround welfare and development of the citizens; it is concerned with the wellbeing of the entire nation.

The concept of Welfare State reached its maturity in the Twentieth Century; the State now takes care of the welfare of all the people.

V. FACTORS RESPONSIBLE FOR THE GROWTH  
OF WELFARE STATE :

In the West, welfare State was mainly understood as philanthropy or charity until the industrial revolution. Subsequently the term 'scientific charity' gained currency with the advent of 'charity organization movement' in England which was known as 'applied philanthropy'. Maurice Bruce says, the Poor Law was the first of the welfare services and then one from which many others developed during the 19th century.

There were various factors responsible for the origin of a welfare state, namely; social, economic, political technological, national notions and universal outlook etc. The role of State according to Aristotle is 'it is not merely a political organization but its moral ends were far more important than its services in protecting property and providing security to existing conditions to make life good.

A Welfare State guarantees a minimum standard of subsistence without removing incentives to personal enterprise and it

brings about a limited redistribution of income by means of guaranteed high taxation, yet does not pretend to establish economic equality among its citizens.

A welfare state expresses fairly adequately a conception of the State which differs vastly, not only from the 'laissez faire' state of 19th century but from all other states of which we have any historic record and further it involves a radical transformation of 19th century capitalistic society to the social good, i.e., the ultimate aim of our civilization. In short, 'Welfare State differs from the traditional school of thought and still more from Communist societies.

#### VI. THE CONCEPT OF WELFARE STATE IN INDIA :

In the Indian context 'Dana' was the earliest conception of the social welfare - 'the philosophy underlying it was known as 'Dana', 'Dharma' or 'Dhamma'. Dana, literally meant sharing and 'dharma' had a variety of meanings ranging from duty or obligation to charity or equity.

During the Moghul period, in medieaval times in India the charity was known as 'Khairat' (meaning giving alms). The goal of social welfare in this Age was described as 'Lok Sangraha' 'Loka Sreya' or 'Sarvodaya' in Indian history.

Welfare activity existed in India in some form or the other - in some crude form during the rule of Khalifs, Tughlaks,

Shersha and Akber's times, and earlier during Chalukyas, Cholas, Mauryas etc. and in a better form during the Golden Age of Guptas and Vikramaditya and still earlier in the best divine form during the epic 'Rama Rajya' times. Our Smrities and Srutis advocated the best and laudable form of welfare measures unknown to this material and mundane world till today. Inspired by these only Vivekananda said, once, 'Him I call Mahatma whose heart bleeds for the poor'; it was a clarion call even to the West to help poor, at one time looking to the world around us and the poor man's plight without even a heart, renders sane advice by advocating 'So long as millions live in hunger and ignorance, I hold everyone a traitor, who while educated at their expense pays not the least heed to them.

VII. HISTORICAL DEVELOPMENT OF THE CONCEPT OF WELFARE STATE IN INDIA :

For over three and a half centuries India was under foreign domination. In 1600, East India Company with the sole policy of trading with India was established and later tended to reduce India to the status of a colonial dependency. It tended to disintegrate traditional economy of the country, which was largely self-sufficient, by making India a supplier of raw materials and a market for manufactured good. Indians were oppressed and made to work in factories under unremunerative wages. The East India Company which came to India as a Trading Company slowly shed its commercial character and became a political organization in later years.

By 1858 the Company rule came to an end. British Crown assumed sovereignty over India and the British Parliament enacted the first Statute for the Governance of India - under the direct rule of the British Government - the Government of India Act 1858. This Act serves as the starting point of the present survey because it was dominated by the principle of absolute imperial control without any popular participation in the administration of the country.

The British Government was only concerned with the collection of revenues and neglecting essential duties of Government to herald a Welfare State. This does not mean that Government was inactive to the needs of people in India. No doubt, measures were taken to regulating public safety, health and morality, labour, trade and business and education. But to what extent did these measures satisfy the Indian people in the wake of 20th century thought. All this measure was mostly in their interest to improve their trade and power.

Active pursuit of public welfare is the accepted canon of modern political and social philosophy. State is looked upon to protect labour from exploitation, women from masculine domination, children from paternal indifferences and neglect, and the poor from the dispensation of punitive relief. The State has to guard against disease, disorder and immorality.

A welfare state is regarded as a system wherein a minimum social responsibility for certain minimum standards of individual and communal welfare are set. In that design or process of its perennial evolution it encompasses various diverse illustrious stages like a Laissez Faire State, Totalitarian State, Police State, Social Service State, Social State, Communist State and a Totalitarian State etc.

These evidently declare that variegated functions devolve on the state from the maintenance of Law and Order, to the protection from foreign invasion, liberty of individual to be secured, nationalization and nation-building programmes, building up private initiative initiation, drive and enterprise etc.

Therefore, for a welfare state of our constitutional dream only a democratic form of Government is most suitable, proper and meaningful to garment the individual with the tonics of liberty, freedom, justice and equality of law and equal protection of laws.

In assisting democracy to don the saffrons of socio-economic transformation, an invisible thread of constitutional continuity from irretrievable torn past, to always available future contact, should be established through garment of socio-economic revolution and process of law.

This is rendered inimitable and not realizeable with odd counters and Utopian roadblocks in the absence of patriotic

fervour fretting and fuming always for a real progress. Juris is Law and prudential is knowledge. The knowledge of Law should inform that dedicated spirit is demanded from both bench and the bar, government and <sup>the</sup> governed. Such a dedicated judiciary and nation can unravel hidden miseries and progress unhindered towards just order. This kind of dedication is a must - which can be termed patriotic jurisprudence or law, the knowledge of which patriotically rendered, will lead us to the right path on the journey to welfare state.

The helping hand is provided in Part-III and Part-IV of our Constitution itself. The Directive Principles of State Policy are meant to subserve this purpose only. The highest law of the law achieves it, through its massive efforts of socio-economic transformation.