

**Justice, Rights and Poverty**

The history of the past century taught us that individual initiative, free enterprise, and fair competition are the best guarantors of wealth-creation. However, markets alone cannot promote growth unless the state creates conditions for stability and harmony, and ensures creation of public goods and the necessary infrastructure. Infrastructure at least is talked about, but harmony is ignored. All debate on the absence of rule of law and the impact this has on wealth-creation is inadequate and limited to merely enforcement of contracts. It is necessary to examine the issue in relation to vulnerable sections.

Let us take a few instances. Madhu Kishwar of Manushi established that the half-a-million vegetable vendors, street-hawkers and rickshaw-pullers in Delhi pay huge sums to several state functionaries. Most of these self-employed workers are migrants from Eastern UP and Bihar, eking out a precarious livelihood in a forbidding environment. Bribes ranging between Rs 300–500 crores is annually exorted from them for the sin of wanting to stand on their own feet!

There are innumerable cases where rights of the poor are violated with impunity without any reparation. For a daily wage-worker or casual employee with no job security, a loss of income, forced absence from work or damages sustained by a civil wrong is often the difference between a modicum of dignity and disaster. Let me relate one incident.

A poor, migrant watchman in Jubilee Hills, Hyderabad, was walking one morning along the road, when a pet dog from a posh home rushed out and attacked him. Before the terrified watchman could free himself, his right arm was severely bitten from wrist to shoulder. There were lacerating wounds and profuse bleeding. The petrified man returned home drenched in blood and perspiration. After recovering from the shock, he went back to that house along with some relatives, to seek some compensation from the owner of the dog. After an hour's haggling, he was given Rs. 100! The owner was impervious to his plight and made no effort to get him medical attention. A few local residents helped out. He had to get dressing, full anti-rabies course and antibiotics. But he still couldn't work for about three weeks. He had to wait for the wounds to heal. The already poor family underwent severe privation, monetary loss, emotional trauma and uncertainty.

In any civilized society, the above incident would be a fit case for civil suit under torts, and a fair compensation would be assessed at Rs.10,000 or more. The owner has the responsibility and should pay damages. In the absence of a legal mechanism to take care of simple torts or disputes in a speedy and fair manner, most poor have no recourse to get a just compensation.

This clearly demonstrates our society's failure to institute elementary, accessible mechanisms for ensuring speedy justice. In public discourse, we tend to apply the term 'Justice' in a grand sense, and talk about correcting the many historical and social wrongs, or ensuring equal distribution of means of production. Such exalted notions of justice may not be within our reach in the short-term, but elementary justice is the absolute minimum a society can aspire for.

When such justice is denied, the poor suffer the most. The rich are insulated from the day-to-day indignities, and there is a compact that binds all the wealthy and influential ensuring their collective security. Two corporations having an unresolved dispute on a contract can always opt for arbitration – local or international – unlike the poor, whose incapacity to recover damages or loss, or protect their rights, drives them into a state of despair and helplessness.

That's the reason why the poor are lukewarm towards economic liberalization and perceive it as anti-poor. Everyone agrees that we need to build a consensus across the political and social spectrum in favour of fair markets, competition, choice and economic freedom. But such a consensus will elude us as long as the poor and disadvantaged cannot count on institutions of state – executive or judicial – ensuring fair treatment, equality before law and speedy reparation for violation of rights.

We have many sensible models of speedy justice available. In India, decades ago, we had an effective system of honorary magistrates to try petty offences. In Britain, the institution of justices of the peace (called JPs) is 700 years old. The recent innovation of small claims procedures in formal courts has created a successful mechanism for speedy resolution of disputes involving £5000 or less. In the US, the small claims courts deal with 100 million simple cases annually, and swiftly deal with civil suits ranging from \$1000 to \$5000 in value and try petty offences. All these are low cost, speedy, accessible, people-friendly mechanisms to ensure justice to the poor. We can easily institutionalize 25,000 such small claims courts in India at a low cost. A small court fee can recover the cost. The benefits in the form of improvement of the lives of the poor, protecting their rights and livelihoods, and creating a climate of rule of law are immeasurable.

In the absence of such sensitive, citizen-friendly mechanisms, people are forced to swallow injustice. Often their lives are shattered, and poverty is perpetuated with little hope of climbing out of the deep hole of misery and injustice. In this climate, a market-demand is created for those who can apply coercion and violence to deliver rough and ready justice for a price. An industry of such criminals settling disputes has arisen on account of the state's failure to deliver justice. This is what makes the mafias and politicized criminals legitimate, corroding our democracy and distorting society.

A sensitive, well-informed, and sensible activist, Major PM Ravindran has raised these issues before the Kerala High Court, and is preparing to stage a Satyagraha before the court. It is indescribably sad and wholly dysfunctional for a constitutional democracy to drive its finest citizens to despair when simple solutions are available. Our politicians and civil servants are no longer endowed with a sense of justice and compassion, and lack innovation and a sense of urgency in dealing with these critical issues. The result is lazy policies and a 'doles' culture reducing proud citizens into mendicants seeking alms. The poor are robbed for want of elementary justice, and are promised a fraction of it in the form of doles.

In such a vicious climate, how can they be wealth-creators or supporters of free markets and defenders of the Constitution?

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