



Research Paper

Constitution as an Inspiration for Growth of Social Philosophy

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Abstract: *“My social philosophy may be said to be enshrined in three words: liberty, equality and fraternity. Let no one, however, say that I have borrowed by philosophy from the French Revolution. I have not. My philosophy has roots in religion and not in political science. I have derived them from the teachings of my Master, the Buddha.”*

~ Dr. B R Ambedkar

Some people believe that a constitution merely consists of laws and that laws are one thing, values and morality, quite another. Therefore, we can have only a legalistic, not a political philosophy approach to the Constitution. It is true that all laws do not have a moral content, but many laws are closely connected to our deeply held values. For example, a law might prohibit discrimination of persons on grounds of language or religion. Such a law is connected to the idea of equality. Such a law exists because we value equality. Therefore, there is a connection between laws and moral values. The constitution of India is the supreme law of India and it lays down the frame work defining fundamental political principles, establishes the structure, procedure, powers and duties of government institutions and sets our fundamental rights, directive principles and the duties of citizens. It is the longest written constitution of any sovereign country in the world. Values enshrined in the Constitution of India points towards the principles of equality and social justice and appreciation of cultural values of each other, dignity of all individuals etc. Values such as equality, fraternity and justice can promote inclusively where all members of the society feel included irrespective of their color, culture, economic or social background, caste, religion, gender or community. The first part of this paper deals with the theme of the constitution and basic concept of welfare state. Further, the author will put some light on the relation between Constitutional provisions and social philosophy. The extent of this paper is to the other provisions of the constitution which inspires the concept of social philosophy and how the scenario to be balanced.

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I. THE BACKDROP

Today, there is great deterioration in our ethical standards, loss of moral and social values resulting in great problems and dilemmas of families, society, nation and ultimately entire world. The constitution of India is the great source of human values and it emphasizes on promoting humanism through its legislative, executive and judiciary institutions. Education as supposed to be a powerful instrument of social change, has to be restructured and reoriented to promote the human values as enunciated in the constitution of India, because the obvious need of mankind is to live in harmony and to nurture creativity so as to realize the goals of inclusive society.

Values are those characteristics of human society which set norms, exert control and influence the thinking willing, feeling and actions of individuals. In India even though the people with diversified language, culture and tradition live together, sharing some beliefs but they may not agree on all issues, there a constitution comes to our rescue with a set of principles, rules and procedures on which there is consensus.

In modern times, the concept of State has undergone a radical change. The individualistic view of the functions of the State and the laissez faire theory has been rejected and are considered to be outdated. The concept of welfare State has emerged and has gained wide recognition. Every State is tending to become a

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welfare State. The social and economic uplift of the masses has become their avowed objectives. In India, even before the independence the nation clearly underlined its objective of the socio-economic development of the people

II. THEME OF THE CONSTITUTION

Preamble is like a mini constitution. It reminds us the noble and grand vision of our constitution makers. The preamble is also known as the soul, spirit and backbone of the Indian Constitution. Without reading the preamble makes no sense in reading the constitution. It is the preamble which gives a brief idea about why the constitution has been prepared.

The preamble can be classified into three parts -

According to the first part, the people of India solemnly resolved India into a Sovereign, Socialist, Secular, Democratic, Republic, each and every word of the preamble is wisely chosen and arranged in such a way that by reading the preamble makes a clear picture of India's stand towards its citizen.

The first part explains about-

- The word **Sovereign** emphasized that there is no authority outside India on which the country is in any way dependent.
- By the word **Socialist**, the constitution means that the achievement of Socialistic pattern of society through democratic means.
- India is a **Secular** country and follows age old Indian philosophy Sarva Dharma Sambhav.
- The term **Democratic** refers not only to political democracy but also to social and economic democracy. Democracy means that the ruler elected by the people of India, which follows a system of "Representative Democracy."
- The word **Republic** denotes a government where no one holds public power as proprietary right, means the head of the state or country is an elected representative and not the hereditary monarch.

The second part says to secure the liberty, equality, justice and to promote unity and integrity among all. The last part is declaratory, where the people of India in their constituent assembly adopt, enacted and gave themselves this constitution.

- **Justice**: the concept of justice was inserted in the second part to secure its citizens political, social, economic justice.
- **Liberty**: is freedom, to secure the freedom of the people of their belief, thought, faith etc.
- **Equality**: it means each and every citizen of the country is equal and the state will work on the concept of equality before the law.
- **Fraternity**: means spirit of brotherhood. The concept the fraternity was introduced so that people feel that all people of the same soil, same motherland are their brothers and sisters are equal in status. India is the country having diversities based on religion, race, and caste so it is important to promote the spirit of brotherhood among them all.

Thus, the Preamble to the Constitution of free India remains a beautifully worded prologue. It contains the basic ideas, objectives and philosophical postulates; the Constitution of India stands for.

III. CONCEPT OF WELFARE STATE

A welfare state is a concept of government where the state plays a key role in the protection and promotion of the economic and social well-being of its citizens. It is based on the principles of equality of opportunity, equitable distribution of wealth, and public responsibility for those unable to avail themselves of the minimal provisions for a good life. The general term may cover a variety of forms of economic and social organization.

In the strictest sense, a welfare state is a government that provides for the welfare, or the well-being, of its citizens completely. Such a government is involved in citizens lives at every level. It provides for physical, material, and social needs rather than the people providing for their own. The purpose of the welfare state is to create economic equality or to assure equitable standards of living for all.²

India is a Welfare State. It is in its Constitutional itself has as Directive Principle and India has tried to achieve it. But these Welfare policies are not adequately monitored and implemented. Rather it has given an effective corruption and partials. All the Government Hospitals were inadequately serviced duty to crisis of management due to policies in the Legislation. Schools run by government institutions are incompetent and in surplus. Slum dwellers signify the mass level migration and show the inadequacies in the Villages or respective states.

While official figures give credence to the claim that "economic growth necessarily leads to poverty reduction", a careful look at them tells a different story about the impact of structural adjustment and

² http://et.legaldefinitions.org/collin_dictionary

liberalization. After a decade of liberalization, the promise of 'Economic growth with justice' seems eternally postponed.³

It is stated in the preamble itself that securing justice, not just 'political' but also 'social' and 'economical' is one of the principal objectives of the Constitution. In addition, if one looks at various directive principles of state policies, it is abundantly clear that the Constitution does contain an explicit commitment to 'socialism'⁴ and imposed an obligation on the state to promote 'welfare of the people'.

The Constitutional conception of welfare state is not limited only to provide certain basic facilities, amenities or services like health, education, housing, sustenance etc.

IV. CONSTITUTION AND SOCIAL PHILOSOPHY

The feeling that political freedom without socio-economic justice will have no significance to the masses of the country, found its expression in the Preamble of the Constitution. In other words, the preamble and most of the significant provisions of the Constitution emphasis the fact that, for political freedom to have a meaning to the masses of India, it is essential that socio-economic justice be achieved.⁵

Rights are legal, social, or ethical principles of freedom or entitlement; that is, rights are the fundamental normative rules about what is allowed of people or owed to people, according to some legal system, social convention, or ethical theory. Rights are of essential importance in such disciplines as law and ethics, especially theories of justice and deontology.

Rights are often considered fundamental to civilization, for they are regarded as established pillars of society and culture, and the history of social conflicts can be found in the history of each right and its development. According to the Stanford Encyclopedia of Philosophy, "rights structure the form of governments, the content of laws, and the shape of morality as it is currently perceived".

Constitution was always linked to social justice. The best example of this is the provision for reservations for Scheduled Castes and Scheduled Tribes in the Constitution. The makers of the Constitution believed that the mere granting of the right to equality was not enough to overcome age-old injustices suffered by these groups or to give real meaning to their right to vote. Special constitutional measures were required to advance their interests. Therefore, the constitution makers provided a number of special measures to protect the interests of Scheduled Castes and Scheduled Tribes such as the reservation of seats in legislatures. The Constitution also made it possible for the government to reserve public sector jobs for these groups.

FUNDAMENTAL RIGHTS

Every right has a social element. Man being a creature of the society, social justice concerns itself with the rights of social rather than of a personal nature. The fundamental Rights and directive principles are supplement each other and aim at the same goal of about a social revolution and the establishment of a welfare state. The fundamental rights of our constitution are social justice. It is mentioned in the preamble itself Justice: Social, Political, and Economic.

Part - III of the Constitution is said to contain the bill of Rights for the people of India. They have been said to be the very foundation and the corner-stone of the democratic way of life ushered in this country by the Constitution. These rights have been declared as sacrosanct, inalienable and inviolable. It has been emphasized that Fundamental Rights are not to be read in isolation. They have to be read along with the Chapter on Directive Principles of State Policy and the Fundamental Duties enshrined in Article 51A.

The Fundamental Rights, which are secured by the Constitution of India, are grouped under the following heads:

- (i) Right to Equality (Articles 14 to 18)
- (ii) Right to Freedom (Articles 19 to 22)
- (iii) Right to Education (Article 21-A)
- (iv) Right against Exploitation (Articles 23 and 24)
- (v) Right to Freedom of Religion (Articles 25 to 28)
- (vi) Cultural and Educational Rights of minorities (Articles 29 and 30) and
- (vii) Right to Constitutional Remedies (Article 32)

According to the philosophy behind Fundamental Rights, they are available only against the State, for they are limitations upon the powers of the Government, Legislative as well as Executive. It is against the might of the State that an individual needs constitutional protection.

DIRECTIVE PRINCIPLES OF STATE POLICY

³ <http://unpan1.un.org/intradoc/groups/public/documents/apcity/unpan002355.pdf>.

⁴ V. Krishna Ananth, *The Indian Constitution and Social Revolution: Right to Property Since Independence* (2015).

⁵ P.B. Gajendragadkar, *The Constitution of India: Its philosophy and Basic Postulates*, 1969, pp. 12-13.

*“We do not want merely to lay down a mechanism to enable people to come and capture power. The Constitution also wishes to lay down an ideal before those who would be forming the Government. That ideal is economic democracy. In my judgment the Directive Principles have a great value for they lay down that our ideal is economic democracy. Because we did not want merely a parliamentary form of the government to be instituted through the mechanism provided in the Constitution, without any direction as to what our economic ideal or as to what our social order ought to be, we deliberately included the Directive Principles in our Constitution.”*⁶

Reading the Preamble and the Directive Principles together makes it clear that attainment of social justice was the goal of the Republic. The Directive Principles have been declared to be fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws.

*“Surely it is not the intention to introduce in this Part these principles as mere pious declarations. It is the intention of the Assembly that in the future both the legislative and the executive should not merely pay lip service to these principles but that they should be made the basis of all legislature and executive action that they may be taking in hereafter in the matter of the governance of the country.”*⁷

The Directive Principles promise social, economic and political justice. Article 38 expressly and clearly requires the State to promote the welfare of the people by securing and protecting as effectively as it may be a social order in which justice, social, economic and political shall inform all the institutions of the national life.

The provisions contained in this Part IV shall not be enforceable by any court, but the principles therein laid down are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws.

*‘...merely because the Directive Principles are not enforceable in a court of law, it does not mean that they cannot create obligations or duties binding on the State...In fact, non-compliance with the Directive Principles would be unconstitutional’.*⁸

According to the Directive Principles, the State is required to secure for the citizens men and women equally, the right to an adequate means of livelihood, better distribution of the resources of the community, to sub serve the common good and to check the evils of concentration of wealth and means of the production to the common detriment; equal pay for equal work; protection against abuse and exploitation of workers economic necessity; the protection of their health and strength, to secure for children opportunities and facilities to develop in healthy manner and in conditions of the freedom and dignity⁹ and to protect childhood and youth against exploitation and moral and material abandonment.¹⁰ The State is to secure equal justice and free legal aid.¹¹

In India, judiciary has played an important role in developing the concept of legal aid and expanding its scope so as to enable the people to have access to courts in case of any violation of their human rights. In the case of ***M.H. Wadanrao Hoskot v. State of Maharashtra***¹², the Court held that the right to legal aid is one of the ingredients of fair procedure.

The State is required to make effective provisions for securing the right to work, to education and to public assistance in case of unemployment, old age, sickness or disablement and in other cases of undeserved want.¹³ The State is enjoined to make provision for just and humane conditions of work and for maternity relief.¹⁴ The State shall secure work, a living wage, and conditions of work ensuring a decent standard of life.¹⁵

In ***Olga Tellis v. Bombay Municipal Corporation***,¹⁶ the court held that the right to life included the right to livelihood. The petitioners contended that since they would be deprived of their livelihood if they were evicted from their slum and pavement dwellings, their eviction would be tantamount to deprivation of their life and hence be unconstitutional. The court, however, was not prepared to go that far. It denied that contention, saying:

“No one has the right to make use of a public property for a private purpose without requisite authorization and, therefore, it is erroneous to contend that pavement dwellers have the right to encroach upon

⁶ Constituent Assembly Debates, 19th November 1948, pp. 494-95.

⁷ Constituent Assembly Debates. Vol. VII, p. 476.

⁸ *Minerva Mills Ltd. v. Union of India* (1980).

⁹ Added by the Constitution (42nd Amendment) Act, 1976.

¹⁰ Art. 39.

¹¹ Art. 39A.

¹² *M.H. Wadanrao Hoskot v. State of Maharashtra* 1978 AIR 1548.

¹³ Art. 41.

¹⁴ Art. 42.

¹⁵ Art. 43.

¹⁶ *Olga Tellis v. Bombay Municipal Corporation*, (1985) 3 SCC 545.

*pavements by constructing dwellings thereon . . . If a person puts up a dwelling on the pavement, whatever may be the economic compulsions behind such an act, his use of the pavement would become unauthorized.”*¹⁷

The State is to take steps to secure the participation of workers in the management of industries.¹⁷ The State shall endeavor to provide free and compulsory education for all children until they complete six years of age.¹⁸ The State is to promote with special care the education and economic interests of the weaker sections of the people, particularly the Scheduled Castes and Scheduled Tribes and protect them from social injustice and all forms of exploitation.¹⁹ The State shall consider among its primary duties to raise the level of nutrition and the standard of living and the improvement of public health.²⁰

In *Consumer Education and Research Centre v. Union of India*, the court, in a PIL, tackled the problem of the health of workers in the asbestos industry. Noticing that long years of exposure to the harmful chemical could result in debilitating asbestosis, the court mandated compulsory health insurance for every worker as enforcement of the worker’s fundamental right to health. It is again in PIL that the court has had occasion to examine the quality of drugs and medicines being marketed in the country and even ask that some of them be banned.²¹

The State shall endeavor to organize agricultural and animal husbandry and is to take steps for preserving and improving the breeds and prohibiting the slaughter of cow, etc.²²

Thus, the Constitution endeavors to remove the social disabilities; to provide on equal basis political rights and other opportunities and to work for the economic emancipation of the masses. These directives are not mere expression of pious hopes; they are in fact a program of action drawn up for active fulfillment.

In *State of Madras v. Champkam Dorairajan*,²³ the Supreme Court observed: *The Directive Principles of the State Policy, which by Article 37 are expressly made unenforceable by a Court, cannot override the provision found in Part III which, notwithstanding other provisions, are expressly made enforceable by appropriate writs, order or directions under Article 32.*

The Chapter of Fundamental Rights is sacrosanct and not liable to be abridged by Legislative or Executive Act or Order, except to the extent provided in the appropriate Articles in Part III. The Directive Principles of the State Policy have to conform and to run as subsidiary to the Chapter of Fundamental Rights. In our opinion, that is the correct approach in which the provisions found in Parts III and IV have to be understood.

However, so long as there is no infringement of any Fundamental Rights to the extent conferred by the provisions in Part III, there can be no objection to the State acting in accordance with the Directive Principles set out in Part IV, but subject again to the Legislative and Executive powers and limitation conferred on the State under different provisions of the Constitution.²⁴

The lack of judicial enforcement does not mean that directive principles are necessarily irrelevant. These principles, though judicially unenforceable, are nevertheless fundamental in the governance of the country. They lay down roadmap for the progress of the country.

They serve twin purposes:

- (i) They provide an assurance to the people as to what they can expect from the government, and
- (ii) (ii) They command the state and its agencies and instrumentalities²⁵ to follow them while making laws or formulating policies for the governance.

These principles require the State, its agencies and instrumentalities to adopt such laws and policies that aim at securing and promoting the welfare of the people as envisaged. It is their constitutional duty to implement them. They may not be answerable in a court of law for the failure to implement them but before the electorate, as per the wishful thinking of the chief architect of the Constitution of India, they are answerable.²⁶

OTHER PROVISIONS

- (i) Fundamental duties regarding social justice U\A 51A to protect and improve the natural environment including forests, lakes, rivers and wildlife, and to have compassion for living creatures. Lakes, rivers and wildlife, and to have compassion for living creatures. To develop the scientific temper, humanism and the spirit

¹⁷ Art. 43A.

¹⁸ Art. 45.

¹⁹ Art. 46.

²⁰ Art. 47.

²¹ *Consumer Education and Research Centre v. Union of India* (1995) 3 SCC 42.

²² Art. 48.

²³ *State of Madras v. Champkam Dorairajan* AIR 1951 SC 228.

²⁴ *Mohd. Hanif Qureshi v. State of Bihar*, AIR 1958 SC 731; *In re Kerala Education Bill*, 1957 AIR 1958 S.C 155, *Deepchand v. State of U.P.*, 1959 SC 648.

²⁵ *Central Inland Water Transport Corporation v. BrojoNath Ganguly* (1986) 3 SCC 156; *Delhi Transport Corporation v. D.T.C. Mazdoor Congress*, 1991 Supp (1) SCC 600.

²⁶ B. R. Ambedkar, VII CAD 41.

of enquiry A parent or guardian to provide opportunities for education to his child or, as the case may be, ward between the age of six and fourteen year. These Duties have been added to implement the recommendations of the Swaran Singh Committee reported in 1976. These duties are intended to create psychological consciousness among the citizens and are of merely educative value.

- (ii) **Article 330:** Reservation of seats for the scheduled castes and scheduled tribes in the House of People.
- (iii) **Article 332:** Reservation of seats for scheduled castes and scheduled tribes in the Legislative Assemblies of the states
- (iv) **Article 334:** Reservation of seats and special representation in Legislative Assemblies and House of People to cease after fifty years.
- (v) **Article 335:** Claims of scheduled castes and scheduled tribes to service and posts. The claims of the members of the scheduled castes and scheduled tribes shall be taken into consideration consistently with the maintenance of efficiency of administration in the making of appointments to service and posts in connection with the affairs of the Union or of a state.
- (vi) **Article 338:** National Commission for scheduled castes and scheduled tribes.
- (vii) **Article 339:** Control of the Union over the administration of Scheduled castes and Scheduled tribes.
- (viii) **Article 340:** Appointment of a commission by the president to investigate the conditions of backward classes.
- (ix) **Article 341:** Power of the President to specify the castes, races or tribes or posts of or groups within castes, races or tribes as scheduled castes.

V. BALANCING THE SCENARIO

When social justice has failed to have its effect. The answer to this is simple. To enunciate the principle of justice is one thing. To make it effective is another thing. Whether the principle of social justice is effective or not must necessarily depend upon the nature and character of the civil services who must be left to administer the principle. The solution to social injustice lies within us only. We should be aware of the expressions for the poor, for the backwards class. social justice which are being used to undermine standards, to flout norms and to put institutions to work. We should shift from equality of outcomes to equal of opportunities and in striving towards that, politicians should be doing the detailed and continuous work that positive help requires, the assistance that the disadvantaged need for availing of equal opportunities. Social processes are constantly changing the society, a good legal system is one which ensures that laws adapt to the changing situations and ensure social good. Any legal system aiming to ensure the basic dignity of the human being and the inherent need of every individual to grow into the fullness of life.

VI. CONCLUSION

Legal provisions and institutional arrangements depend upon the needs of the society and the philosophy adopted by the society. The Constitution gives expression to this philosophy. Fundamental rights provide for political freedoms to the citizens by protecting them against excessive state action while directive principles are to securing social and economic freedom by appropriated action both are inspiration of reform legislation. The fundamental rights should be interpreted in the light of directive principles to observe the limits set by directive principles in the scope of the fundamental rights. For example, article 39, 39-A can be interpreted with article 21 of the constitution and article 46 can be interpreted with article 29 and 30 of the constitution.

Today our judiciary is the protector of civil rights, it is the custodian of fundamental rights, it is the guardian of the Constitution, its role in a federal system as the arbitrator is well known and the power of judicial review has reposed faith of the people in the judiciary. Both legislative anti-people law making and the executive excesses can come under judicial scanner. The importance of judiciary is more for the citizens than for the States. The judicial system is a part of the judicial process for the welfare of people and for social justice.

The significance and importance of the concept of social justice today is that Social justice is not a blind concept. It seeks to do justice to all the citizen of the state. A democratic system has to ensure that the social development is in tune with democratic values and norms reflecting equality of social status and opportunities for development, social security and social welfare.

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