

Full Length Research

Directive Principles: Means of Socialism in India

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The main object of Directive principles of state policy is to liberate the masses in a positive sense, to free them from passivity engendered by centuries of coercion by society and nature and by ignorance, and from the abject physical conditions that had prevented them from fulfilling their best selves. So, keeping in view for establishment of socialistic pattern of society, the word "Socialistic pattern of society, the word socialism" was included in the constitution, because the main emphasis in a socialist state is on the welfare of all not of a few. The state is entitled to adopt all possible measures to secure the welfare and happiness of all sections of the people.

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INTRODUCTION

With the inauguration of the Constitution of India there started a new era in the history of constitutional development. The Indian Constitution being a modern document reflects the ideas and ideologies of the modern age. Indian caste system, social exclusiveness, poverty, primitive agricultural economy and illiteracy-all have influenced it. It provides for a democratic form of government and declares India a secular State. The ideological portions of the constitution are mirrored in the Preamble and the Directive Principles of State Policy. The Directive Principles provide one of the most novel and striking features of modern constitutional government.

The Directive Principles' are the directives in the governance of the country and legislation. The Indian Constitution envisages two sets of rights viz. (1) Fundamental Rights and (ii) Directive Principles of State Policy. The Fundamental Rights, like the American Bill of Rights are "Opportunities given to individual for the development of his personality." But the Directive Principles seem to be the ideals of the State which the State shall strive to implement in guiding the destinies of

the nation. They are in the form of affirmative instructions to the Government to direct their activities to certain things and thereby promote the realization of high ideals as put forth in the Preamble of the Constitution. Thus the difference between the two lies in the fact that where the Fundamental Rights are justiciable, the Directive Principles are not.¹

However, rights have been the demands of the individuals everywhere in all ages. John Locke, a staunch individualist, was the father of the Rights of Citizens. He enunciated the principles of limited Government and talked of the Rights to life, liberty, and estate. Thus the line of thought which Indian Constitution has followed was created in England during the course of the nineteenth century. It began with Jeremy Bentham, and was developed by the Radical movement. Thus a collection of liberal political principles obviously derived from the English experience in the nineteenth century are deemed to be suitable for India in the twentieth century. Jennings² believes that "the question whether these are suitable for the twenty first century, when constitution

may still be in operation, cannot be answered, and probably outmoded". Modern progress in science and technology may revolutionize the economic and social life of the people. If India will be a communist country, it will emphasize not the Benthamite and Fabian line of thought, but the Marxist and Leninist line. Thus this part of the constitution is a product of time and circumstances which change rapidly. Hence in this atomic age change is inevitable.

OBJECTS

However, this idea of the Directive Principles was taken from the "Directive Principles of Social Policy" of the Constitution of Eire which in turn took it from the constitution of Republican Spain. Precedents for constitutional declaration of social and economic rights are numerous. Hence there was a demand in the Constituent Assembly for the inclusion of social and economic rights as had been done in the Soviet Constitution, Constitution of Weimar Germany and the like. But the Government argued that though they were willing to incorporate these rights, they had neither men nor money to implement them in the near future, because of India's pecuniary condition and the circumstances created owing to the partition. Therefore the Constituent Assembly followed the principles of the Constitution of Eire and made the social and economic rights non-justiciable. There are some arguments in favour of the inclusion of the Directive Principles in the Constitution.

- (i) It announces to the world the basic objectives of the Constitution of India, and the nature of our state-Welfare State. It satisfies the aspirations of those who wanted immediate socialism in India.
- (ii) This part puts before the general public a yardstick to judge the policy and activities of the Government. Dr. Ambedkar while moving the constitution (First Amendment) Bill of 1951 said on the floor of the house that the Directive Principles are a guide, for the courts of law, interpreting that Fundamental Rights. He said, "the Directive Principles say that there shall be no concentration of economic power and when the Government in pursuance of these principles passed the Estate Acquisition Act, the Supreme Court while interpreting them under Art. 31 (2) should not on the ground of Fundamental Rights declare them ultra vires." In other words, Fundamental Rights should be interpreted in the light of the Directive Principles. But the Supreme Court in *Shankari Prasad Vrs. State of India*³ clearly said that they were unable to accept Dr. Ambedkar's view. Because when the constitution clearly says that the Fundamental Rights are

justiciable whereas the Directive Principles are not, the court could not help the Government by subordinating the justiciable rights to non-justiciable principles. However, in an under-developed country like India where people are not very conscious of their political rights "moral homilies" do have a place in the fundamental law of the land.

However, the idea of such principles can be traced back to the Declaration of the Rights of man and citizen, announced by revolutionary France, and the American Declaration of Independence. These declarations had influenced the Europeans and Americans to remove anti-social practices and resort to positive measures. Modern political philosophers advocated such principles to be made available to modern society as the guiding force of activity. The ideas of Bentham and guild socialism have influenced our Directive Principles. Jennings criticizes that the ghosts of Sydney and Beatrice Webb talk through the pages of the entire text and this part of the constitution expresses Fabian Socialism without the word 'socialism' for only the nationalization of the means of production, distribution, and exchange is missing. This, of course, is an exaggerated statement but such ideas influenced the constitutional fathers to some extent. Constitutional theory has tended to follow constitutional practice. Public policy to-day is largely concerned with social and economic objectives. It is desirable to formulate the agreed objectives in legal instruments of the constitutional character, and least as "a manifesto of aims and aspirations". The constitution contains a reaffirmation of the classical individual liberties and a declaration of the modern welfare state and economic means of attaining those objectives. Some such measures have also been formulated in international agreements and declaration like the Atlantic Charter, the Constitution of the I.L.O., the Charter of the United Nations and the declaration of Human Rights were in progress when the Constituent Assembly was deliberating upon the constitution. Then a base for such provision was already indicated in the Government of India Act of 1935. The Directive Principles are like the 'Instruments of Instructions' under the Government of India Act of 1935, issued by the King to the Governor-General. The Congress Party took the leadership in the Indian independence struggle and was morally committed to provide for social and economic betterment, when they were represented in majority in the Constituent Assembly. The Gandhian ideals of cottage industry, Gram Panchayats, cow-protection and prohibition, etc. has to be given due respect even by including them in the Constitution of the country.

PROVISIONS & PROSPECTS

In the U.S. the individual knows his interests best. But in India, the Constitutional fathers did not leave it to the individual. Reference has been made to the progress made by science and to the glorious past. They, however, seem inconsistent. All Indian beliefs are not based on scientific analysis. The Directive Principles talk of the multifarious affairs, administration, education, agriculture, civil code, separation of Judiciary from the Executive, international behaviour etc. Some of them may be principles, some of them may be rights. The Directives direct the State to secure a social order for the promotion of the welfare of the people "as it may"⁴. For Aristotle, the object of the State is honourable and prosperous life. Justice is the prime motive for which the State continues to exist. Justice is inherent in the state organization and this differentiates the State from a gang of robbers.

There is no fixed interpretation to economic, social and political justice. Thus Art. 38 seems to be vague and ambiguous. We may find in the pages of the constitution, from Art. 14 to 18, a proclamation of the rights to equality. All social equality is fundamentally based on economic equality. Liberal interpretation of equality means an equal opportunity in the economic field. Human beings are basically unequal: so the economic fruits should be unequal. If equal justice is meted out to these unequal individuals it will never be equal justice proportionately.

The provision for political equality in Art. 38 seems ambiguous. The liberals interpret political equality as one vote to one man, and all men and women can hold political offices. The Marxists advocate that there is no political equality if the State remains an instrument of class domination. Those who work shall live. But Indian constitution does not speak of political justice in those terms. The State shall strive to direct its policy for common good.⁵ As common good demands the protection of both the weak and the strong, free competition ought to be controlled. Thus a part of the constitution militates against liberal reforms. Karl Marx believed that neither economic nor social nor political justice is possible so long as one class exploits. Mill and Bentham wanted free play of enterprise and least state regulation. In India, the state is to lead and to direct the policy for common good.

The organization of village Panchayats is a reference to the glorious past of the country.⁶ 'The Panchayats were units of caste regulations and respect for them shows Indian caste character. Its decline was due to the practice and regulation of British Central laws. The need for democratic decentralization seems to be acute in India today but there is a great decline of local autonomy due to central regulation, supervision, control and finance. The "Unity of Command" makes them dependent on the centre. The ideal of Art. 40 seems to be untenable. The congress leaders tried to appeal to the sentiments of the

people by living past memories.

The provision for the separation of judiciary from the executive in the public services of the country is praiseworthy. The nationalist leaders were arrested and tried by the same executive authority. So they provided such a change (but not executive from the judiciary). Then, owing to the increase in the sphere of state action, judges with technical knowledge are necessary.

The state is to promote international peace and security. No state has even denied these principles but has always interpreted in favour of national interest. Indian foreign policy is not to be governed by moral precepts. The policies of a state are always just and honourable but not of its opponents. In case of Kashmir arbitration is not resorted to, and Goa is liberated by military action.

The improvement of cottage industries and co-operative societies in rural areas is aimed at. When India will be industrialized, there will be very little scope for cottage industries. Bapuji's struggle for the emancipation of Harijans resulted in Art. 46. A ban on cow-slaughter and scientific breeding are contradictory to each other but it appeals to the Hindu sentiment. Article 44 provides for a uniform civil code for the citizens throughout the territory of India. In a huge country like India it is an ideal proposition but not a practicable one.

In the U.S. the courts keep in mind the principles of natural justice. The Indian courts have given way to the Directive Principles by interpreting the Fundamental Rights. The Five Year Plans have tried to translate them into practice. The aim of the socialistic pattern of society is gaining momentum. A uniform civil code is not an easy measure in India where the adherents of every religion have their own laws. With her limited resources India has spread the Harijans. India's role as a mediator for peace is highly significant in the international field.

Anyway, the Directive Principles being non-justiciable seem to be a set of platitudes by clever politicians to hoodwink the credulous Indian masses. But the masses elect their representatives. Thus may be liable to be ousted from power by the people.

Political democracy needs economic democracy (otherwise there is the danger of dictatorship). Fundamental rights of the citizen of India economic democracy to sustain the former. If Prof. K.T. Shah were alive today, he would have revised his opinion, that "these are like a cheque on a bank payable only when the resources of bank permit"?

The Directive Principles are neither Directives nor Principles-because it depends on the willingness of the States to implement them without any binding. These directives being a part of Indian heritage are of immense educational value. These are positive obligations of the State towards its citizens. Through these principles the Constitution will steer clear of the two extremes-a proletarian dictatorship which destroys the liberty of the individual and a capitalist oligarchy which hampers the

economic security of the masses.⁸ Its inclusion serves as a constant reminder to the legislators and to the Executive of their fundamental obligation. The political parties are free to advocate their own programmes and appeal to the electorate to get votes from them. The Directives are potential milestones on the road of progress of the State towards the goal of social welfare. The way to paradise as visualized in the Directive Principles thus passes through the thorny road of Fundamental Rights. Justice S.R. Das in the case *Champakam V/S Madras*⁹ said clearly that the directive principles cannot over-ride the fundamental rights. The principles are the experience of the long struggle which Indian had to carry on to free them from the foreign yoke.

Now it is for the parties (both the right and the left) to strive in their own way to reach the ideals of social and economic democracy when they come to power. Hence these are neither 'New Year Resolutions' nor 'decoratives' in the Constitution. The Directive Principles are the greatest guarantee for genuine democracy in India. A constitution is concerned with the present – the future will take care of itself if the present is built on solid foundations.

SOCIALISM

In the context of present-day India, socialism has become a convenient device for politicians of all hues and denominations for bringing about economic and social transformation in order to ensure a better life for the masses. The Congress under the leadership of Mrs. Indira Gandhi has become overwhelmingly vocal about it. It is on this basis particularly that her party has been voted to power in an unexpected number in the midterm election to Parliament and in the fifth General Election to most of the State Assemblies. Whether the seriousness of the Congress regarding the socialistic objectives and concern for the common man is genuine or is an opportunist's vote-catching device is to be seen in the coming years.

Socialism like Planning was one of objectives of Indian Constitution, though the original Constitution nowhere mentions the word Socialism in the text. But by the Forty Second Amendment of the constitution made in 1976, the word Socialist was included in the preamble of the constitution of India. Historically, most of Indian leaders, being western-educated urban elites had been trained in the principles of nineteenth-century liberal democracy. Many of them were also steeped in the principles of twentieth century Socialist Democracy. Socialist thinking had a warm welcome in the Congress since the thirties.¹⁰ The rise of the working class had become a factor to be reckoned with in the progress of the Indian people towards self-rule.¹¹ Though the Congress defined its goal as the creation of a socialistic pattern of society at Avadi

in 1955, it had taken a definite step at Karachi in 1931 in this direction even before the attainment of Swaraj, by its resolution on the fundamentals of their objective. Under the charismatic leadership of Jawaharlal Nehru, the influence of Socialism on the Congress¹² was increasingly felt in view of which Micheal Brecher has described him as the link "to bridge the gap between Socialism and Gandhism".¹³

The framers had also observed the problems of poverty and social backwardness. As Professor Norman D. Palmer points out, "They could not fashion alternative principles which had gained widespread acceptance or even under standing. Undoubtedly too, Indian leaders were conditioned to favour Parliamentary democracy because of their close associations with the British, who over centuries had evolved the most successful example of this form of democracy".¹⁴

The Assembly's belief in Parliamentary Government was strengthened in large measure by the intellectual and emotional commitment of many members to Socialism. They ranged from Marxists through Gandhian Socialists to conservative Capitalists, each with his own definition of 'Socialism'. Practically every one in the Assembly was 'Fabian and Laski-ite enough to believe that Socialism' is every day politics for social regeneration and that democratic constitutions are inseparably associated with the drive towards economic equality. The Debates relating to the Objectives Resolution and the Directive Principles of State Policy substantiate the legitimacy of the argument that the Constitution must be dedicated to some form of Socialism for the social regeneration of India the Congress Socialist party accordingly adopted a resolution at the Kanpur Conference on February 28, 1947 that "There could be no Socialism without Democracy."

Nehru had been interested in Fabianism at Cambridge and in Marxism thereafter. Then he changed from a Marxist or a Laski-style Socialist to an empirical gradualist when the Constituent Assembly met.¹⁵ Though Nehru was a professed Socialist by 1945, the real problems for Nehru were problems of individual and social life by a practical and secular approach.¹⁶ It may be that Sardar Patel's conservative influence deprived the Constitution from having a greater socialist content than it has. Granville Austin speculates¹⁷ that "perhaps it was in deference to his wishes that Nehru omitted the word, 'Socialism' from the Objectives Resolution". What was of greatest importance to the Assembly members, however, was not that Socialism be embodied in the Constitution, but that a democratic constitution with a socialist bias be framed so as to allow the nation in future to become as socialist as its citizens desired or as its needs demanded.

Provision for political equality is never real unless it is accompanied by virtual economic equality. Prof. K.T. Shah was therefore supporting the inclusion of economic

and social rights in the Constitution. True individual freedom cannot exist without economic security and independence. That is what Prof. Shah pointed out in his letter dated February 15, 1947 to Dr. Rajendra Prasad, President of the Constituent Assembly. Most of the members of the Constituent Assembly believed that the type of socialism India should have was not theirs to decide.

It was, however, clear to them that "the utility of a state has to be judged from its effect on the common man's welfare"¹⁸, and that the Constitution must establish the state's obligations beyond doubt.¹⁹ This appears to be the inner content of the Directive Principles of State Policy and the Objectives Resolution by basing it upon socialist aims.²⁰ B.N. Rau, the Constitutional Adviser in his 'Constitutional Precedents'²¹ pointed out that the Irish example was emulated by the fathers of the Constitution to distinguish between justiciable and non-justiciable rights. The members also drafted provisions based on K.M. Munshi's draft on Fundamental Rights and based Articles on Latuerpacht's International Bill of Rights of Man. The final shape is essentially Indian both in emphasis and substance.

In the light of the above analysis it is found that Socialism and socialistic actions are not something new in India. Which was the Constituent Assembly, on June, 18, 1951 passed the Constitution (First Amendment) Act. It provides that no law providing for the acquisition of Agricultural Estates shall be deemed void on the grounds that it is abridges Fundamental Rights. It further provided shields to Acts already passed by some of the States to carry out agrarian reforms by placing them in the Ninth Schedule to the Constitution.²² The supreme Court justified the same in the Shankari Prasad Case.²³

The Constitution (Fourth Amendment) Act, 1955 passed on April 27, 1955 made adequacy of compensation immune from judicial scrutiny²⁴. Similarly, the Constitution (Seventeenth Amendment) Act, 1964 was passed on June 20, 1964, and defined the term 'Estate'²⁵ which was again upheld by the Supreme Court in the case of Sajjan Singh V/S State of Rajasthan.

The Supreme Court seems to have exercised the Doctrine of counter-vailing and it inaugurated through slender majority of one, the mighty process in its epoch-marking judgment in the case of Golak Nath V/S State Punjab.²⁶ The Court considered the great social and economic changes that had been effected on the basis of such laws. The majority said, perhaps as much as Sir Edward Coke would that Parliament shall have no power to amend the Fundamental Rights. In the process, they also over-ruled their two previous Judgments. The nationalization of fourteen major Banks²⁷ and abolition of the Privy purse²⁸ were held ultra virus inoperative and the Presidential Orders were struck down by majority judgment. Such epoch-making judgments endowed the Supreme Court with the status of third chamber of

Parliament in actual practice.

CONCLUSION

People of India, advancing to socialism, hold out the image of the future for India and to the ultimate outcome in the future classless society. That is why, after independence, Directive Principles of state policy was included in the constitution in which the state can take special action for welfare of the people and judiciary is also very serious in this concerned to safe the spirit of the constitution. Mr. M. Hidayatullah, on his retirement from the Supreme Court as the Chief Justice of India, expressed the view that the Judges are not to be influenced by changing social philosophies and ideologies. A look to the Constituent Assembly Debates will prove eloquently that socialist programme has been a part and parcel of India's political system. As Chief Justice Holmes of the American Supreme Court pointed out, Law is the result of regulated social experience. Judges are members of the society and they experience emerging ideas and ideologies as is the case with the common man. Blunt refusal to be influenced by the same is to negative the foundation of Law. Constitutionalism essentially believes in dynamism and not in static existence. The letter of the Law is not enough unless it is examined in the light of the spirit behind the Law in a democratic socialist structure. The welter of change has gathered momentum everywhere with many-fold challenges. Since time moves on, and circumstances change rapidly, Indian society cannot afford to stand and stare.

REFERENCES

01. Article 37
02. Jennings, Sir Ivor-1952 Some Characteristics of India Constitution P.
03. Shankari Prasad Singh Deo Vrs. Union of India – A.I.R. 1951 S.C. 458.
04. Article 38
05. Article 39
06. Article 40
07. Constituent Assembly Debates VII. P. 479.
08. Pylee, M.V. 1960 Constitutionla Government in India p. 320 Asia.
09. State of Madras Vrs. Champakam – A.I.R. 1951 S.C. 226
10. Dutt, R.P. 1955 India Today & Tomorrow, pp. 357, Delhi.
11. Namboodiripad, E.M.S. 1959, The Mahatma and the Ism, pp. 41-42, New Delhi.
12. Nehru, Jawaharlal, 1962, An Autobiography pp. 196, Bombay.

13. Brecher, Michael, 1959, Nehru – A Political Biography pp. 78, Oxford.
14. Pulmer, N.D. Indian Political System.
15. Nehru, Jawaharlal , Discovery of India pp. 17, 1956, London.
16. Acharya, Narendra, Dev., 1946, Socialism and the National Revolution, pp. 205-6, Bombay,
17. Austin Granville, 1966, The Indian Constitution, Corner stone of a Nation, pp. 41-42, Oxford.
18. Kamath, H.V., C.A.D. Vo-VII, pp. 2 and 221
19. Sidhwa, C.A.D, Vol. li, pp. 259.
20. Nehru, C, A, D, Vol, I, pp. I, 5, 60.
21. Constitutional Precedents, Third Series, pp. 22.
22. The Constitution (First Amendment) Act, 1951
23. Shankari Prasad V. Union of India, A. I. R. 1951, S.C. 458
24. The Contitution (Fourth Amendment) Act, 1955.
25. The Contitution (Seventeenth Amendment) Act. 1964.
26. Golak Nath V. State of Pnnjab, A. I.R. 1967, S.C. 1943.
27. R.C. Cooper V. Union of India A.I.R. 1970 S.C. 564.
28. Madhav Rao Scindia V. Union of India, A.I.R. 1971 S.C. 530.