

Reg No 177/2008-2009

ISSN: 2322-0325

**PSSH** PERSPECTIVE *of*  
SOCIAL SCIENCES  
*and* HUMANITIES

An International Multidisciplinary Refereed Research Journal

VOL 2, NO 2

JULY - DECEMBER 2013

Biannual

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Deoria (UP)

Publisher

*Herambh Welfare Society*

Varanasi (India)



## *Socio-Economic Justice in Indian Legal System*

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In fact, the concept of Socio Economic Justice has been embodied in the objectives as enshrined in the Preamble of the Indian constitution. Liberty, equality and fraternity which the constitution seeks to secure for the people of the India are to serve the primary objectives of ensuring social and economic justice. Justice is the harmonious blending of selfish nature of man and the good of society. Mahatma Gandhi has described in “The India of My dream” an India, in which the poorest shall feel that it is their country in whose making they have an effective voice, an India in which all communities shall living perfect harmony<sup>2</sup>.”

Different nations, groups, academicians, philosophers and individuals have interpreted in various ways, the moral, political and socio economic ideals that have agitated human mind throughout the history of mankind. These ideals include Justice, Liberty and Equality and reflect the basic concept and aspirations of the people who have propounded these terms which are also called in modern times as “Social Engineering”. According to Pluto justice means “giving to every man his due” which means treating each person in accordance with his capacities and training from which society is born to benefit.

The concept of social justice has in fact been used and abused by the man movement culminated in the 20<sup>th</sup> century. Social justice is the application of general principle of justice to social order just as distributive justice. Justice prevails in a society where every individual’s rights are protected and persevered. Inequality of treatment is viewed as a prima-facie state of in justice. Social justice is an equality of opportunity and economic justice is a equality of economic opportunity. Social and economic justice is a valuable principle of social security and must be incorporated in framing the structure of

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<sup>2</sup> M.K. Gandhi India of My dreams, P.P 9 - 10

the society. Sh. V.R. Krishana Iyer, in his book “Justice at Cross Roads” has explained the meaning and concept of justice as “justice is the interest of man on earth.” It is the ligament which holds the civilised beings and civilised nations together<sup>1</sup>. It is admitted fact that India, with all its thousands of years of cultural heritage and Vedic vintage (age) has not been able to assure to its people even the pretence of the Preamble’s grand undertaking of justice, liberty, equality and fraternity to every man. To redeem the tryst with destiny, India made after Britishers quite and Independence dawned, a progressive jurisprudence and a commitment to compassionate culture which spans from the Lord Buddha to Mahatma Gandhi. Article-38 of the Indian Constitution stands as the basic value directives and good starting points. It aims at securing a social order for the promotion and well being of the people of India. India has its cultural roots, political perspectives, constitutional pledges and tryst with destiny which together constitutes the nation’s founding fathers of social justice with an egalitarian bias and participative accents. To achieve the goal of socio economic justice our Legislature, Courts and successive Governments must be judged by the fundamental evaluation of their performance, dismissing the propagandized plans of development and social justice litigation as misleading flares.

## **SOCIO- ECONOMIC JUSTICE UNDER THE CONSTITUTION OF INDIA**

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According to Mahatma Gandhi “the economic constitution of India and for that matter of the world should be such that none under it should not suffer for want of food and clothing”. In other words, everybody should be able to get sufficient work to enable him to make the two ends meals and this ideal can be universally realized, only if the means of production or elementary necessities of life remains under the control of masses. These should be freely available to all as God’s air, water are. They should not be made vehicle of exploitation of others. Their monopolization by any country, nation or group of person would

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<sup>1</sup> Sh. V.R. Krishana Iyer ‘Justice at Cross Roads’ Deep and Deep publication, F 159 Rajouri Garden, New Delhi.

be unjust<sup>1</sup>.

In fact the Preamble, the chapter on Fundamental Rights and Directive principles of state policy can be characterised as the trinity of the Indian Constitution. The Preamble states that the people of India have solemnly resolved to secure to all citizens justice social – economic and political, equality of status and of opportunity. The objective resolution from which the above phrase has been carved out states as, “The Constituent Assembly declares its firm and solemn resolve to draw up for her future governance of the Constitution:

(i) Wherein shall be guaranteed and secured to all the people of India, justice social, economic and political, equality of status of opportunity and before the law;

(ii) Wherein adequate safeguards shall be provided for minorities, backward tribal areas, depressed and other backward classes.

Thus, it is evident from the contents and spirit of the Preamble that the concept of socio-economic justice has been expressed and elaborated very clearly which contains the aspirations of the people of India who have made sincere efforts to frame the Constitution. Dr.B.R.Ambedkar, the Chairman of the drafting committee of the Assembly stated that, “if this resolution has a reality and sincerity behind it whereby, it would be possible for the State to make economic, social and political justice a reality and I should have from that point of view expected the resolution to state in most explicit terms that in order that there may be social and economic justice in this country, there would be nationalisation of industry and nationalisation of land. I do not understand how it could be possible for any future Government which believes in doing justice, socially, economically and politically, unless its economy is a socialist economy<sup>2</sup>, “Alladi Krishnaswami Ayyer, has pointed out that Constitution should not be rendered rigid by incorporating in clear terms a particular economic policy, and it should contain the necessary element of growth and adjustment needed for a progressive society”.<sup>3</sup> Pandit Jawahar Lal Nehru who was the sole architect of the

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<sup>1</sup> Young India November 15, 1928

<sup>2</sup> Dr. B.R Sharma, socio economic justice under the Indian Constitution p-17, Deep & Deep publication Rajouri Garden New Delhi.

<sup>3</sup> Ibid. p-18.

Objective Resolution, said “If, in accordance with my own desire, I had put in something which may be agreeable to some and we wanted this Resolution not to be controversial in regard to such matters. Therefore, we have laid down, not theoretical words and formulae, but rather the content of the thing we desire,”<sup>1</sup> Thus, it was on the basis of objective resolution that the founding fathers our Constitution clearly laid down socio-economic justice as a goal to be achieved by the successive Governments in India and did not favour the idea of incorporating in the Constitution a particular means to achieve the goal of providing socio – economic justice , but it is not free to change the goals which if does would be fraud on the Constitution which is the supreme lex of the land. The meaning and concept of socio –economic justice has been also explained by sh. M.R Masani as,” the people of this country, so far as any Constitution can endow them with great social security , the right to work or maintenance by the community,”<sup>2</sup> Seth Govind Das has said, “that keeping in view the conditions of the world and plight of India, we can say that our republic will be both democratic and socialist, if true peace is to be realised, it can only be realised through socialism. No other system can give us true peace.”<sup>3</sup> While expressing the views on socio-economic justice Sh. N.V.Gadgil has stated, “that it could be secured only if means of production in the country are owned by the community as the private individuals”<sup>4</sup> On the socio-economic justice, concept as contemplated in the objective resolution S. Radhakrishnan has said that it intended to effect a smooth and rapid transition from a state to serfdom to one of freedom. Advocating the need for such a change, he said,” it is therefore, necessary that we must remake the material conditions, but apart from remaking the material conditions, we may have to safeguard the liberty of human spirit,”<sup>5</sup> Therefore, it can be construed to some extent from the above views/opinions of the framers of the Constitution, Philosophers, Jurists and Academicians concerning the meaning

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1 Ibid.

2 Ibid. p-19

3 Ibid.

4 Ibid.

5 Ibid.

and concept of socio-economic justice which indicates three fold trend, firstly the rejection of the present social structure and the social status quo, secondly, it contemplates a smooth and rapid transition from the state of serfdom to one of freedom and thirdly, it envisages remaking and making of material conditions. The preamble concept of socio-economic justice has been translated in clear terms by the founding fathers in specified provisions in part III and IV of the Constitution.

## **VARIOUS DIMENSIONS OF SOCIO-ECONOMIC JUSTICE**

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The formulation of social and economic objectives in National Constitutions owes its origin to the realization that the content of political freedom is impaired by the absence of social and economic justice and that economic justice, Constitutional guarantees of what are known as “classical individual liberties” such as right to equality, liberty of person and freedom of speech and association may lose much of their significance. The close relationship between political freedom and socio-economic justice has become a common concept since the French Revolution and it has been recognised that peace in the world can be established, if it is based on social and economic justice. The most of the modern countries Constitutions contains declarations of social and economic principles, which emphasise upon the States the duty to strive for social security and to provide work, education and proper conditions of employment for its citizens. The Indian Constitution through its Preamble also declares that the Socialist Democratic, Republic, of India shall be a welfare State committed to the ideal of socio-economic and political justice. This preamble message of socio-economic justice has been translated into several Articles dealing with its different facets in part III and IV of the Constitution. Both of these have a common grounding and have been very rightly described as the;” conscience of the Constitution”.<sup>1</sup> They in fact exhort the State to take positive action by protecting the minimum of the individual’s rights and by reducing the number of those whose share of utilities of life fall below the minimum level. They aim at betterment of the weaker sections of society ensuring

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<sup>1</sup> See Granville Austin, Indian Constitution; Cornerstone of Nation, 50 (1966).

human rights to the lowliest and lost living in the low visible areas of human life. For example, Article 14 of the Indian Constitution guarantees to every citizens equality before the law and equal protection of laws. But how this valuable right can be exercised by those weaker sections of society who have been continuously oppressed, suppressed and exploited for years together. In similar way, Article 21 of the Constitution of India gives a right to life and personal liberty. But how a person who has been suffering from starvation can take benefit of the precious right of freedom? Article 19 guarantees a number of fundamental freedoms but such freedoms will remain like an empty slogan for a person who has no food to eat, no roof to live in and no clothes to wear. Article 25 gives religious freedom but this freedom can be enjoyed by those only who have material means to practice them. Article 17 abolishes untouchability but this provision requires the spirit and will to effectively implement the same. Article 23 prohibits traffic in human beings and forced labour and Article 24 prohibits the employment of children in factories who are below fourteen years of age. The fundamental rights enumerated in part III of the Constitution have been designated as fundamental or enforceable rights, but if a person does not have a minimum of material well beings, so as to be able to exercise these rights, how can he think of enforcing them. In other word, if a person by reason of socio-economic constraints is unable to possess any of them, how can he complain of their deprivation? It is said that “Excellence comes only after existence” in fact, the socio- economic rights have been embodied in part IV of the Constitution as Directive Principles of State policy. Article 37 accords these directives not only a place of permanence in the Constitutional scheme but also makes them fundamental in the governance of the country. The Constitution has imposed a duty on the State to apply these principles in making laws with the objectives of providing social and economic justice and to ameliorate the conditions of life of citizens. Article 38 states that, “the State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice social, economic and political, shall inform all the institutions of national life”. Article 39 spells out specifically and lay down the Principles of policy to be followed by the State while enacting laws. This Article further spells out that the citizens, men and women equally have the right to an adequate means of livelihood ;that the ownership and



control of material resources of the community should be so distributed as best to sub serve the common good; that the operation of the economic system should such as not to result in the concentration of wealth and means of production to the common detriment; that there should be equal pay for both men and women; that the health and strength of the workers , men and women, and tender age of children is not abused ; that the citizens are not forced by economic necessity to enter avocations unsuited to their age or strength and that the children and youth should be protected against exploitation and against moral and material abandonment. Art 39 A provides for the promotion of social justice and enjoins upon the State to make provisions for providing legal aid to the weaker sections of the society. Article 41 directs the State to make effective provisions for securing right to work while. Article 43 directs the State to provide for all workers a living wage. Article 42 imposes a duty on the State to provide for just and human conditions of work and maternity relief. Another provision concerning welfare of workers is Article 43A which stipulates participation of workers in the management of industries and make workers as partners in the nation's productive process. Besides, there are other directives in part IV of the Constitution which imposes as obligation on the State to provide for free and compulsory education for all children until they attain the age of fourteen years, to raise the level of nutrition, to promote the education and economic interests of weaker sections of society including the Scheduled Castes and Scheduled Tribes etc. In addition to this, there are two more provisions in part III of the Constitution which obliges the State to make special provisions for the weaker sections of the society. These are Articles 15(4) and 16(4) the former which supplements the notion of proportional equality obliges the State to make special provision for the advancement of any socially and educationally backward class of citizens or for the Scheduled Castes and the Scheduled Tribes. The latter provision enables the State to make provisions for the reservation in services in favour of any backward class of citizens who in the opinion of the State are not adequately represented in such services. The above Constitutional provision mainly deals with the various facets of socio-economic justice as envisaged by the founding fathers of the Constitution. But these precious provisions will merely shine as rhetorical legalities drained of real life effectiveness, if the State fails to

translate them into realities. No doubt. They are the life giving provisions of the Constitution but unless the State machinery is moved to effectuate the objectives enshrined therein, they would remain merely pious wishes. It is here that the role of Directive Principles of State Policy in the implementation of socio-economic justice becomes of paramount importance. These directives constitute the stuff of the Constitution and its philosophy of socio- economic justice. In fact, they are the brain centre of the Constitution which gives the directions for working the mechanism contained in other parts of the Constitution. No limb of the Constitution, whether it deals with the State's legislative power, its judicial power, and executive power or even with the individual's duties, rights or freedoms, is meant to function except in conformity with the specified principles of State policy. Fundamental rights will only be meaningful for the timings millions of Indian citizens living in the paradox of poverty, if an affirmative action on the part of the State implementing directive principles providing for the social and economic justice to the people and thus carrying the responsibilities of the welfare state is made indispensable. While combing the ideals of social, economic and political democracy with that of equality and fraternity in the Preamble Mahatma Gandhi Ji has described in "The India of my Dream" namely an India in which the poorest shall feel that it is their country, in whose making they have an effective voice, an India in which all communities shall live in perfect harmony"<sup>1</sup>

The term socialism which has been added with the term socialism and integrity vide 42nd Amendment Act, is implicit in the Preamble and the directive principles of state policy. The term economic justice in the preamble denotes India's resolve to bring socio-economic revolution. The principles as enshrined in part of the Constitution under Article 38(1) and 39(b& c) are the charters of economic liberties of the people. In fact Article 38 and 39 embodies the jurisprudence doctrine of distributive justice. Elimination of the conditions of social and economic justice calls for determined action on the part of the Government. The failure of the Government to end the social and economic exploitation may invite the fury of the unfortunate victim of system and the edifice of the Constitution, democracy and even

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<sup>1</sup> M.K Gandhi India of my dream, pp 9-10.

country may become the first causality. The very existence of large scale socio economic inequalities may bring down the whole structure even without giving any indication thereof. Therefore, it can be said that the role of directive principles of State Policy in the implementation of socio- economic justice is of paramount importance.

Our Judiciary which has been assigned the role to interpret the provisions of the Constitution and provide justice to the masses by mitigating their sufferings from the arbitrary acts of the executive has made sincere efforts from time to time to explain and express the meaning and true concept of socio-economic justice in clear terms in its various judgments. In relation to Socio-Economic Philosophy it is, pertinent here to discuss some of the important judgments which have been delivered by the Supreme Court of India, from time to time and socio-economic justice provided to the weaker sections of the society.

(i) The Supreme Court judgment in *Olga Tellis v. Bombay Municipal Corporation* case popularly also known as the pavement dwellers case, a five judge bench has finally ruled that the word Life in Article 21 includes the right to livelihood also. The Court has observed that no person can live without the means of livelihood. If the right to livelihood is not treated as part of the Constitutional right to life, the easiest way of depriving a person of his right to life would be to deprive him of his means of livelihood to the point of abrogation. Such deprivation would not only deprive the life of its effective content and meaningfulness but it will make the life impossible to live.”<sup>1</sup>

(ii) In *D.S Nakara v. Union of India*, The Supreme Court has held that “the basic frame work of socialism is to provide a decent standard of life to the people and especially to provide security from cradle to grave”.<sup>2</sup>

(iii) The Supreme Court in *Keshava Nanda Bharti v. State of Kerala*<sup>3</sup> which is one of the celebrated judicial pronouncement, speaking through Hedge and Mukherjee JJ, has observed that no one can deny the importance of principle as contained in part IV of the Constitution which is designed to bring

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<sup>1</sup> AIR 1986 sc 180, (1985) 3 SCC 345.

<sup>2</sup> AIR 1983 SC 130.

<sup>3</sup> AIR 1973, SC 1973, SC 1461.

about the social and economic revolution that remained to be fulfilled after Independence. To ignore part IV is to ignore the substance provided for in Constitution, the hopes held out to the nation and the very ideals on which our Constitution is built. Any Government which fails to fulfill the pledge taken under the Constitution cannot be said to be faithful to the Constitution and to its commitment<sup>1</sup>.

(iv). In *Randhir Singh v. Union of India*<sup>2</sup> the Supreme Court relying on the Preamble and Articles 14 and 16 of the Constitution held that Article 39(a) envisages a constitutional right of equal pay for equal for both men and women.

(v) In *excel wear v. Union of India*<sup>3</sup> the Supreme Court considered the effect of the word 'socialist' in the Preamble and has held that the addition of word socialist might enable the courts to lean more in favour of nationalization and state ownership of industry.

(vi) *Maneka Gandhi v. Union of India*<sup>4</sup> Bhagwati J. again quoted with approval, the new concept of equality as propounded by him in the *EP Royappa case*"', Equality is a dynamic concept with many aspects and dimensions and it cannot be imprisoned with in traditional doctrinaire limits. Article 14 strikes at the arbitrariness in the state action and ensure fairness and equality of treatment,"

(vii) In *Peoples Union for democratic rights v. Union of India*<sup>5</sup> the Court has held that non-payment of minimum wages to the workers employed in various *Asiad* projects in Delhi was denial to them of their right to live with basic human dignity and is violative of Article 41 of the Constitution.

(viii) In *Chameli Singh v. State of U.P*<sup>6</sup> it has been held that the right to shelter is a fundamental right under Article 21 of the Constitution.

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<sup>1</sup> Dr. B.R Ambedkar and empowerment, constitutional vicissitudes, K.I Vibhute, University of Pune, 1953 at pp-129.

<sup>2</sup> AIR 1982 SC 879(1982)1 SCC 618.

<sup>3</sup> AIR 1979 SC 25.

<sup>4</sup> AIR 1978 SC 597.

<sup>5</sup> AIR 1982 SC 1473.

<sup>6</sup> (1996) 2SCC 549.

(ix) In *Rajgopal v. State of T.N* <sup>1</sup> popularly known as “Auto Shanker case” the Supreme Court has held that “Right to privacy” or the right to be let alone is guaranteed under Article 21 of the Constitution.

(x) In *Surjeet Singh Thind v. Kamaljeet Kaur* <sup>2</sup> the Court has held that allowing medical examination of women for her virginity test amounts to violation of her right to privacy and personal liberty as enshrined under Article 21 of the Constitution.

(xi) In *State of Maharashtra v. Manu Bhai Pragaji Vashi* <sup>3</sup> the Court has considerably widened the scope of the right to free legal Aid. The Court has held that in order to provide free- legal aid, it is necessary to have well trained lawyer in the country. The right to free legal aid and speedy trial are guaranteed as fundamental rights under Article 21 of the Constitution. Article 39 (a) provides for equal justice and free legal aid.

(xii) In *Unni Krishnan v. State of A.P* <sup>4</sup> the Supreme Court has held that the “Right to Education” upto the age of 14 years is fundamental right within the meaning of Article 21 of the Constitution, thereafter the obligation of the State to provide education is subject to the limits of its economic capacity. The right to education flows directly from the right to life, the Court declared.”

(xiii) In *Gujrat Agriculture University v. Rodhod Labhu Prachar* <sup>5</sup> the Supreme Court considered the regularisation of daily wage workers who continued for more than 10 years in Gujrat Agriculture University and their absorption and relaxation of eligibility conditions on compassionate grounds and held that the Court should exercise the discretion very cautiously. The Court further observed that the Government who is guardian of the people and is obliged under Article 38 of the Constitution to secure social order for the promotion of welfare of the people and eliminate inequalities in status.

The 25<sup>th</sup> amendment Act 1971 was passed to enable the Government to implement more speedily socio economic reforms.

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<sup>1</sup> (1994) 6SCC 632.

<sup>2</sup> AIR2003 P& H 353.

<sup>3</sup> (1995) 5 SCC 730.

<sup>4</sup> (1993) 1SCC 645.

<sup>5</sup> AIR 2001 SC 706.

This amendment added a new Article 31c to Article 31. The new Article 31c provides that no law which is intended to give effect to principles as contained in Article 39 (b) & (c) shall be void on the ground that it is inconsistent with or take away or abridges any of the rights conferred by article 14 and 19 of the Constitution. Many times the Government has alleged that the courts are acting as stumbling block for socio- economic reforms process launched by the Government as welfare measure. But the Court has categorically, denied this allegation and instead of becoming a stumbling block, the Judiciary has now taken itself the responsibility of implementing the Directive Principles of State Policy. In its many recent judgments the Courts has declared /issued many directives as fundamental rights and have enforced, equal pay for equal work, protection of children from exploitation, abolition of child labour in hazardous work, free and compulsory education to children below the age of 14 years. Protection of working women from sexual harassment, free legal Aid to poor, speedy trial of under trial prisoners, right to work and medical assistance to workers Art 41 and protection of ecology and environmental pollution Art 48 A. Thus, the Judiciary has proved through its various judgments that it is not against the social reforms but inclined towards socio-economic justice where poor sections of society are suppressed and depressed by the arbitrary action of the Government.

From the above discussion it can be construed that unless and till socio economic justice is provided to the deserving sections of the society viz. weaker marginalized sections of the society, the provisions made in the Constitution of India under part III and IV of the Constitution are meaningless. Therefore, no Government can afford to ignore the precept and practice of socio economic justice while framing any policy or enacting the law. The Success of Government depends, whether the Government has been able to provide to its citizens socio economic justice as has been enshrined in the Preamble of the Constitution. In modern times the gap between rich and poor (haves and have not) has so widened that it has become difficult for governments since Independence to bridge up this widened gap. Thus unless this gap is bridged up by successive governments by fanning a welfare policy which will look after the interests of the weaker sections of the society, especially the Scheduled castes, Scheduled Tribes, socially and economically backward sections and other

marginalized sections of the community, these people can never dream of getting socio- economic justice as has been desired and enshrined by the framers of the Constitution.