

# **SOCIO-ECONOMIC JUSTICE: AN ANALYSIS WITH REGARD TO THE CONSTITUTIONAL PROVISIONS AND STATE POLICIES**

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## **ABSTRACT**

*"A nation that continues year after year to spend more money on military defense than on programs of social uplift is approaching spiritual doom." - Martin Luther King, Jr.*

Since the existence of mankind there has always been a quest for justice in some form or the other. As the times have progressed and the civilization as a whole has evolved there has been an emergence of subsets or facets of justice. One such facet is the principle of socio-economic justice. India being a welfare state would guarantee this form of justice to all its citizens. Hence, the founding fathers of this nation only thought that it would be wise to make special provisions in the constitution regarding the said principle. Even the Preamble of the Indian Constitution has a language, which speaks about this principle. It symbolizes the determination of India in bringing about socio-economic justice. The importance of these provisions only arises as the constitution is hailed as the grundnorm in Indian jurisprudence. However, it is to be noted that despite such provisions being enshrined in our constitution there have been certain neoliberal policies implemented by our state, which have rendered these principles futile. The objective of this research paper shall be to determine the importance of the said constitutional provisions and the implementation of policies by the state contradicting the principle of socio-economic justice. This research paper shall be divided into four parts including introduction and conclusion.

**Keywords:** DPSP, Indian Constitution, Neoliberal Policies, Socio-economic Justice, Welfare State.

## INTRODUCTION

There has been a quest for deciphering one single meaning for a simple term justice. It is the root which connects individual rights and needs with social good. The essence of justice prevails in various forms. For the Greeks, as they say to Polemarchus, justice is giving what is due to every person in society and to Thrasymachus justice is the importance of the weaker. Existence leads to knowledge, rightness, reason and truth; Consciousness leads to will, power, action and Anand (Bliss) leads to satisfaction, happiness, peace, welfare etc. From this point of view justice is the expression of Right, Truth, Existence, which also implies knowledge and virtue<sup>1</sup>. Justice stands for rule of law, absence of arbitrariness and a system of equal rights, freedoms and opportunities for all in society. *“Justice protects the rights of the individual as well as the order of society.” -Dr. Raphael.*

Social justice revolves around the development and understanding of retributive and distributive principles, their association with historical situations and the political economy, the impact of their institutionalization on both the individual and social development, and their assessment through various criteria and/or processes. Socio-economic justice entails the application of the principles of justice at both social and economic scales. Social justice focuses on justice in the social context rather than solely on the individual as the concept encompasses understanding how multitudes of people interact both within and between themselves (Barry, 2005). Retributive justice encompasses appropriately responding to harm while distributive justice encompasses allocation of burdens and resources fairly. The notion of a socially just world draws from the concept of social justice. This is because social justice builds on the idea

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<sup>1</sup>Ideal of Justice in Indian culture by Dr. R.N Sharma

of equality and human rights, economic egalitarianism as in the redistribution of property and income as well as progressive taxation.<sup>2</sup>

This principle of socio-economic justice sought to have been achieved by the inclusion of the Directive Principles of State Policy (DPSP) in our Constitution in part IV of it. There are multiple judicial precedents, which enunciate on this principle as well, making their interpretation more efficacious. The provisions provided under DPSP are the pathways for the Indian government to walk on i.e. they are the guidelines for government policy making. They are the instruments of instructions in the governance of the country. The principle suggests unique mixture of humanitarian, socialist precepts, Gandhian ideals and democratic socialism. Most of them aim at the establishment of economic and social democracy, which is pledged for in the preamble. The concept behind DPSP is to establish a 'Welfare State'. The Directive Principles, though not justiciable, are fundamental in the governance of the country. In *Air India Statutory Corporation v. United Labour Union*, the Supreme Court has observed that DPSPs are forerunners of the U.N. Convention on Right to Development. They are imbedded as an integral part of the Constitution and that they now stand elevated to inalienable fundamental human rights.<sup>3</sup>

This principle also finds a mention in the preamble of the Indian constitution. The preamble to an Act sets out the main objectives, which the legislation is intended to achieve. It contains the word which stated that it is the obligation upon the state to secure to all its subjects social, economic justice.<sup>4</sup>

To understand the impact of neoliberal policies on socio-economic justice we first need to understand the doctrine of neoliberalism. Neoliberalism is a term which is used to describe a type of liberalism which supports liberalization of economics, open markets, free trade, and other similar and distinct characteristics in today's society. While the definition of the term has since changed over time, generally it is thought that neoliberalism is an ideology which

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<sup>2</sup>All Answers ltd, 'What Is Socio Economic Justice Politics Essay' (UKEssays.com, June 2018), Available at <https://www.ukessays.com/essays/politics/what-is-socio-economic-justice-politics-essay.php?vref=1> accessed 8 June 2018

<sup>3</sup>AIR 1997 SC 645

<sup>4</sup>AIR1967 SC 1643

condones small state economics in the concern of self-interest. As previously mentioned, neoliberalism usually promotes the practice of privatization and deregulation, as well as the cutting of taxes in some cases. While many people will consider neoliberalism the ideology of our modern society, expressing that it is exponentially growing in popularity, they will also express that there is a difficulty in discussing the concept due to the overall vagueness in its definition.<sup>5</sup> This paper intends on enunciating on these two principles and their mutual relevance and its ramifications on the Indian state.

## **CONSTITUTIONAL PROVISIONS TO ATTAIN SOCIO-ECONOMIC JUSTICE**

The importance of these provisions only arises, as the Constitution is the grundnorm or the mother of all laws in India. This implies that all laws have to be in accordance with the Constitution. The Constitution of India pronounces the provisions under the Directive Principles of State Policy (Part-IV) to protect basic human rights and pave the way for the principle of socio-economic justice by upholding legislative measures and executive projects designed to secure economic justice to the weaker sections of the society. These principles are the specific policies for the state to follow for socio-economic justice and ultimately to fulfil the objectives of a welfare state.

The relevant provisions to that effect being enumerated upon are:<sup>6</sup>

- Art. 38 of the constitution which provides that the state shall in particular strive to minimize inequalities in income and endeavour to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also among the groups of people residing in different areas or engaged in different vocations.
- Art. 39(b) Distribution of ownership and control of the material resources of the community to the common good.

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<sup>5</sup> Widely accepted definition of Neoliberalism

<sup>6</sup> The Constitution of India

- Art. 39(c) to ensure that the economic system should not result in concentration of wealth and means of production to the common detriment.
- Art. 39(d) states that there should be equal work for both men and women. Thus, the state is under constitutional obligation to direct its policy towards securing that there is equal pay for equal work for both men and women.
- Art. 41 directs the state to ensure the people within the limit of its economic capacity and Development a) Employment b) Education c) Public Assistance in cases of unemployment, old age, sickness and disablement and in other cases of undeserved want.
- Art. 42 directs the state to make provisions for securing just and humane conditions of work and for maternity relief.
- Art. 43 requires the state to try secure by suitable legislation or economic organization or in any other way to all workers, agricultural, industrial or otherwise a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities and in particular the state shall endeavour to promote cottage industries on an individual or co-operation basis in rural areas.
- Art. 46 enjoins the state to promote with special care the education and economic interest of the weaker sections of the people, and in particular schedule caste and schedule tribes, and to protect them from social injustice and all form of exploitation.
- Art. 47 imposes duty upon the state to raise the level of nutrition and the standard of living of its people and the improvement of public health. In particular the state should bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and drugs which are injurious to health.

The idea of welfare State envisaged by our Constitution can only be achieved if the State endeavours to implement them with a high sense of moral duty. It is true that these principles are not judicially enforceable and, therefore, cannot be regarded as justiciable. But the fact that the assistance of the judicial process cannot be claimed by citizens in the enforcement of the principles laid down in this Part does not detract from the basic position that the Constitution-makers wanted the governance of the country to be founded on these principles.

B.R. Ambedkar emphasized when he invited the Constituent Assembly to accept the provisions

in Part IV. To quote him: "*It is the intention of the Assembly that in future both the legislature and the executive should not merely pay lip services to these principles but they should be made the basic of the legislative and executive action that may be taken hereafter in the matter of governance of the country.*" He further said "*If any Government ignores them, they will certainly have to answer for them before the electorate at the election time*".<sup>7</sup>

The schemes or executive programmes based on the articles as enshrined in the DPSP are:

The Minimum Wages Act (1948) and Child Labour Prohibition and Regulation Act (1986) which seeks to protect the interests of the workers.

Integrated Rural Development Programme (1978), Jawahar Rozgar Yojana (1989), Swarnajayanti Gram Swarozgar Yojana (1999), Sampoorna Gram Rozgar Yojana (2001), Mahatma Gandhi National Rural Employment Guarantee Programmes (2006) etc. have been implemented to improve the living standard of the people.

Abolition of the Zamindari System - The greatest achievement of the Government of India is the abolition of the zamindari system. Agriculture is the main source of income in India and the farmers were being exploited by the zamindars. Thus major income of the country was in the hands of Zamindars. With the abolition of the Zamindari system the farmers got relief from exploitation.

Factory Acts - The state has passed various Factory Acts by which minimum wages, insurance against sickness and other just and human conditions of work have been laid down for the workers.

Reservation of Posts for Scheduled Castes and others - The state has passed various laws by which a number of posts have been reserved for members of the SC & ST and other weaker sections of the community.

Raising the standard of living - To raise the standard of living, especially in villages, the government started the community development programme. It tries to provide better communication, education, housing and sanitation. It aims at uplifting the rural poor above the

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<sup>7</sup> Constituent Assembly Debates

poverty line.

Prohibition of Intoxicating Drinks and Drugs - has been introduced in many states.

Cottage industries have been established and protected by giving tax concessions.

Thus there have also been judicial decisions wherein these principles have been held as an integral part in the governance of our country they are:

In *Randhir singh v union*<sup>8</sup> the supreme court has held that the principles of equal pay for equal work for both men and women is not a fundamental right but it is fundamental goal and therefore capable of enforceable of under article 32 of the Indian constitution.

In *Air India statutory corporation v united labour union*<sup>9</sup> it was held that, the social justice concept consists of diverse principles for orderly growth and development of personality of every citizen. The aim of social justice is to attain a substantial degree of social, economic, and political equality which is legitimate expectations and constitutional goal.

It is to be noted that despite such provisions, programmes and precedents existing in India the dream of the founding fathers still seems to remain like far-fetched reality as opposed to the ground reality. These measures still cannot be brushed under the carpet as they have brought about some changes and have expedited the process of establishing a state where socio-economic justice becomes the ground reality.

Under the present socio-economic system, it is the liberty of the few, which is in conflict with the liberty of the many. The Directive Principles therefore impose an obligation on the State to take affirmative action for creating socio-economic conditions in which there will be an egalitarian social order with social and economic justice to all, so that individual liberty will become a cherished value and the dignity of an individual a living reality, not only for a few privileged persons but for all the citizens of the country. Thus, these provisions not being enforceable in the court of law still shape the policy making process in India or intend to shape the policy making process thereof. They help us understand the true vision of India as our founding fathers envisioned it to be. These provisions in their true sense serve as means to the

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<sup>8</sup> AIR 1982 SC 879

<sup>9</sup> AIR 1997 SC 645

end of socio-economic justice.

## **NEOLIBERAL POLICIES IMPLEMENTED OR CONCEIVED BY THE STATE OF INDIA AND ITS IMPACT**

Neo-liberalism surely has massive impact on the economic growth of the country, but are those positive impacts seen in every place of India. These are the policies framed to make India a more competitive economy in the world. Although it suggests certain policies that directly or indirectly contradicts the policies pronounced by the Directive Principles to ensure a “welfare state.”

The reforms by neo-liberalism are the most important factor in reducing poverty by increasing growth. It is said that growth creates employment: it puts money in the hands of the government, which can provide health and other facilities for the poor, and it also provides an incentive to the poor to invest in human capital. But if neo-liberalism or economic reform is such a wonderful thing, why is it that in one survey 75% of respondents who had any opinion on the subject said that the reforms benefit only the rich. (Bardhan, 2005)<sup>10</sup>

The neo-liberal market-economy model runs in the opposite direction of the well-conceived social democracy model of Dr. Ambedkar. The profit driven paradigm of free market economy accords no importance whatsoever to the principles of liberty, equality and fraternity. The only value that it considered worth of honouring is the value of unrestrained and free flow of capital without least interference by the institution of the State.

The New Economic Policy (NEP) model pursues the goal of transforming India into a world power by making it an office, a laboratory (for pharmaceutical and biotech companies, for example), and a factory for international capital, based on (relatively) cheap labour, both skilled and unskilled. To achieve this goal, the big business makes specific demands on the state, including: deregulation of private businesses; privatisation of government businesses; trade liberalisation; granting of permission to foreign capital to own businesses in India; enactment

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<sup>10</sup>Bardhan, Pranab. (2005). Institutions Matter, but Which Ones? *The Economics of Transition*. 13. 499-532. 10.1111/j.1468-0351.2005.00229.x.



of tax cuts and other incentives for businesses, reduction or complete withdrawal of government benefits for the poor; and complete freedom to hire and fire labour. The NEP has certainly brought with it some foreign technology and cheaper intermediate goods. It has also benefited some educated people employed in IT and related industries, including tech-cookies. Many of these people tend to easily acquiesce to their own exploitation, despite the huge difference in remuneration between India and western countries.<sup>11</sup>

On the other hand, Neoliberalism has produced enormous amount of economic inequality, insecurity, unemployment and under-employment, casualization, informalisation, greater labour exploitation, and lax or non-existent implementation of protective factory acts. Rural development expenditure as a percentage of the net national product has been decreasing. Government subsidies for fertilisers, electricity, and other farm inputs, as well as investment in irrigation, have all been slashed. Access to cheap loans for farmers has been limited. Price supports to farmers have been reduced, and the Public Distribution System (the provision of subsidised food) has been drastically curtailed. Peasants are losing land to capitalist industrialisation and land speculation. Land ceiling laws are reversed because they are considered to be constraints on capital flows into farming. The costs of cultivation are going up due to shrinking government support. These people are also adversely affected by the import of subsidised foreign farm goods. Highly indebted, many are driven to distress sales. It has produced a graveyard of people in villages who have committed suicide (at a rate of two per hour) because of their economic insecurity and inability to pay the bills. Reduced government support for the plantation industry, such as tea estates, and reduced protection against foreign competition means that many units are going out of business, causing workers to live in poverty and indeed, in many cases, commit suicide. The non-implementation of a living wage – in a context where there is a massive and growing reserve army to which dispossession under neoliberalism contributes – drives wages below the cost of maintenance.<sup>12</sup>

The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Bill, 2015 is the classic example of how neoliberal policies in India operate and their adverse effect on the society. This is because of the provisions present in this

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<sup>11</sup>Journal of Contemporary Asia, 2015

Vol. 45, No. 4, 715–726, <http://dx.doi.org/10.1080/00472336.2014.1003143>

<sup>12</sup> Available at [isreview.org/issue/103/austerity-neoliberalism-and-indian-working-class-0](http://isreview.org/issue/103/austerity-neoliberalism-and-indian-working-class-0)

bill, one of them being the Bill allows exemption for projects in these five categories from requiring Social Impact Assessment to be done to identify those affected and from the restrictions on the acquisition of irrigated multi-cropped land imposed by Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. This is just one example being stated for the elaborate understanding of Neoliberal policies being implemented in India.

The Act is quite draconian. The compensation amount so paid does not make up for the whole range of losses, social and economic resulting from forced eviction. Also, there are thousands of millions of people whose sole income comes from the money earned through these lands. Compulsory acquisition of land would be snatching the livelihood of these people. Between 1991 and 2003, i.e., in a span of 15 years, about 5 million hectares of land has been converted to non-agricultural use. The amount is half of what has achieved during first 40 years of independence. There are indications that between 2005-2007, the conversion of agricultural land to non-agricultural use is taking place at a still higher pace. Which is the reason for suicide amongst the farmers and people dependent on agriculture in the country. This makes a huge difference in the income inequalities.

According to the World Bank Environment Department (WBED) roughly about 10 million people are displaced each year all over the globe due to dam construction, urban development, industrial expansion or infrastructural construction. While development-induced displacement occurs throughout the third world, two countries in particular China and India are responsible for a large portion of such displacement. The equity-based justice is consequently denied to a section of the displaced persons. As the corporate enters in the land market, such weaknesses of compensation principles are fully exploited.

The existing Rehabilitation policy in Orissa does not safeguard against double or triple displacement, which has happened in the past due to poor planning of resettlement process and project assessment, especially in the tribal areas. As a result the displaced tribals and other weaker sections are getting marginalized. Ultimately, this is causing large-scale migration to urban centres. As all these people are not skilled they don't find any considerable employment in urban set-up, and there they are forced to occupations like rag picking, rickshaw pulling, bonded labour, migrant labour and even begging.

India has been ranked 132nd among 152 nations in a new index tracking commitment to reducing income inequality. The index prepared by Development Finance International, Inc. and Oxfam ranks nations on the basis of their welfare spending, the progressive nature of their tax system and prevailing wage inequality in the labour market. The report highlights India's less-than adequate spending on welfare measures on account of its low tax to gross domestic product (GDP) ratio compared to that of some other nations as well as the disparity between wages of men and women for the same work. "In India, the wage gap is 32.6%. Even in societies that are considered to have achieved high levels of gender equality overall, there remain significant gender gaps in income and influence," the report pointed out. Also that, Government spending on health, education and social protection is woefully low.<sup>13</sup>

The absolute growth in income of the top one percent of the population since the 1980s has been more than that of the bottom 50% people taken together. By 2014, the national income share of the bottom 50%, a group of about 390 million adults, was just two-thirds of the share of the top one percent, who totalled at 7.8 million. Highly unequal income growth at the top mechanically drives wealth inequality across the population, which in returns fuels income concentration. In 2014, the bottom 50% earned significantly less than the average income per adult, receiving less than one-third of the nationwide mean income before tax, while the average income of the middle 40% was around four-fifths the national average.<sup>14</sup>

Last year's Oxfam survey had showed that India's richest 1% held 58% of the country's total wealth, which was higher than the global figure of about 50%. According to the latest survey, the wealth of this elite group increased by over Rs 20.9 lakh crore during the period under review-an amount close to the total expenditure estimated in the Union Budget 2017. India's top 1% of the population now holds 73% of the wealth while 67 crore citizens, comprising the country's poorest half, saw their wealth rise by just 1%. That billion, which is still consuming less than Rs50 a day, is slipping on international rankings in almost all measures of human development. India is home to the largest number of billionaires outside the US, China and Germany. It is also home to the largest number of poor, of hungry and malnourished, of child

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<sup>13</sup> Available at [www.livemint.com/Politics/eYghD8stGzkaZXhEIoNZaN/India-ranks-132-in-commitment-to-narrow-income-inequality.html](http://www.livemint.com/Politics/eYghD8stGzkaZXhEIoNZaN/India-ranks-132-in-commitment-to-narrow-income-inequality.html)

<sup>14</sup> Available at [thewire.in/economy/income-inequality-highest-india-since-1980s-finds-new-report](http://thewire.in/economy/income-inequality-highest-india-since-1980s-finds-new-report)

labourers, of people defecating in the open, of those without access to safe drinking water, of illiterates and so on. It is also among three countries in the world whose global hunger index has worsened.<sup>15</sup>

Thus it can be inferred that some of these policies are in direct conflict with social security of the citizens. Social security is an essential feature of a welfare State.

## CONCLUSION

The model of democracy as our founding fathers envisioned was a true socialistic State where socio-economic justice was the norm and not the exception. But as contemporary times have come about this vision seems to have been blurred away from our discourse. Neoliberalism being peddled in most brazen manner is just the tip of the iceberg but the larger implications these neoliberal policies have on the society is an important question which must be pondered upon.

The biggest irony in the Indian State today is, where in one of the articles of the newspaper, the government makes statements like *“India is the fastest growing economy in the world today. We are committed to raising the standards of living of our people. We are also committed to ensure that we do so in a way that is sustainable and green.”*<sup>16</sup> And in an article just below it says about the condition of the Strike held by farmers in Maharashtra since 5 days demanding for loan waiver due to poor monsoon and their devastated living conditions due to the same. To be precise, Agriculture has been the main source of income for the Indian economy and to safeguard its interest the Zamindari system was abolished but today there are certain policies in different interest is harming agriculture sector, which is one of the downfalls in ensuring justice. The ways for improvement in the condition of Indian Economy to achieve welfare state were propounded in the Constitutional Provisions mentioned in the paper but certain other kinds of policies that aim at building the economy to compete globally are at some levels defying these provisions. These provisions are the guidelines entrusted with the state to be utilized for securing socio-economic justice to people across the board and all the places in the

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<sup>15</sup> Available at [www.oxfamindia.org/sites/default/files/himanshu\\_inequality\\_Inequality\\_report\\_2018.pdf](http://www.oxfamindia.org/sites/default/files/himanshu_inequality_Inequality_report_2018.pdf)

<sup>16</sup>The Indian Express, dated 6<sup>th</sup> June’18

country but not everyone is experiencing it. The true sense of these provisions is yet to be accomplished.

