

INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 6 | Issue 1

2023

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Socialism in Indian Constitution with Reference to Right to Property

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ABSTRACT

India, the nation that got independent after years of shed of blood and tears of glorious freedom fighters, aimed to evolve into a society free of all sorts of inequalities in the society. 'Socialism' was an apparent way to bridge the economic rift that existed between the elite class and the people in the grip of poverty. So it was back in the year 1976 when the term 'Socialism' found its place in the auspicious 'Preamble' of the 'Constitution of India'. However, being a newly independent country, it would have been difficult to incorporate the model of socialism to the extremities, so it was taken care that the model of socialism (Democratic Socialism), which was adopted in India, was suited to the situations prevailing in India.

This paper throws light on the concept and types of socialism (Marxian Socialism and Gandhian Socialism), the history of inculcation of socialism in the Indian Constitution with the same adaptive changes and it also discusses how Indian socialism deals with the 'Right to Property'.

Keywords: Socialism, Marxian Socialism, Gandhian Socialism, Democratic Socialism, Right to property.

I. INTRODUCTION

According to Carl Landauer, "Socialism is a system of communal (or social) ownership established for the purpose of making (or keeping) the distribution of income, wealth, opportunity and economic power as nearly equal as possible."² Socialism is basically an economic concept that stands contrary to capitalism. It provides for a framework where the population (or citizens of a country) has collective ownership and control of the means of production. In a democratic country, the citizens of the country are represented by the government they elect; therefore, socialism can be defined as a system where "the government owns the major means of production which are used according to the central planning."³ Means of production may include things like land, companies, factories etc. A polity that follows

¹ Author is a Lawyer at Kanpur District Court, India.

² David Fellman, Ideologies and Modern Politics, Dodd, Mead and Company New York 1973 Toronto p.255

³ William Ebenstein and Edwin Fogelman, Today's Isms: Communism, fascism, capitalism and Socialism 128 (9th ed. 1985)

socialism i.e. a political system which believes that every person has equal right in the wealth of the country and the government ought to control and own all or main industries, is said to be a Socialist polity.

‘Proportional distribution of wealth’ can be regarded as one of the highlighting feature of socialism. ‘Social justice’ and ‘economic justice’ are generally regarded as the ‘pillars of socialism’.⁴ It endeavours to remove inequality and prevent exploitation and suppression of one class by another. It aims to provide similar opportunities to all irrespective of their class (whether rich or poor). Welfare of the state is the objective that it seeks to achieve.

(A) The key features of socialism may be described as –

1. Socialism priorities society over individual.

Society is given more importance as compared to the individual in a socialist polity. This means that socialism keeps ‘interest of society’ at a higher pedestal as compared to the individual interest.

2. It puts emphasis on equality.

Socialism puts efforts to eradicate social as well as economic inequality. It believes in promoting a healthy competition between the rich and the poor by bridging the gap of inequality that exists between them.

3. It stands in opposition of capitalism.

Capitalism leads to an inequality in the distribution of wealth among the masses. Suppression of working class is also evident in capitalist societies. A very small share of the production goes to workers and the surplus is retained by the capitalists; and this is an impediment to the social justice.

4. Socialism is in favour of abolition of private ownership of property.

Socialism prefers state ownership of property over its private ownership. Private ownership of property is one of the causes of inequality and therefore should be abolished.

(B) Theories of Socialism- There are various theories of Socialism. Among them, Marxian Socialism and Gandhian Socialism are discussed below.

a. Marxian Socialism – ‘Scientific Socialism’ is the term which is used to describe the Marxian Socialism, since it depends on the scientific study of History. Marxian

⁴ Dr. Priti Tiwary, The ideology of Socialism in Indian Constitution, International Journal of Applied Research; 4(1) : 222-228

Socialism, also known as Revolutionary Socialism, is based on the logic that the proletariats (the working class) are suppressed by the bourgeoisie (the capitalists). Marx proposes that the proletariats should get together and overthrow the bourgeoisie, by resorting to any means, even revolutionary if required. There are 4 main pillars of Marxian Socialism- Historical Interpretation, Dialectical Materialism, Theory of Surplus value and Dictatorship of Proletariat.⁵

- b. Gandhian Socialism** – Gandhian Socialism, which is guided by the principles of Satya and Ahimsa, requires a society which is devoid of inequality, exploitation and class hatred. Gandhian Socialism also advocates dispossessing people of their private property but by adopting non-violent means.

Both Marxian and Gandhian Socialism seek to remove economic inequality. Where on one hand, Gandhian Socialism suggest non-violent methods to do so, on the other hand Marxian Socialism allows revolutionary means also.

So, the point to be noted here is that in most of the theories of Socialism the description of the Concept of Socialism is more or less similar, the difference lies only in the methods they adopt to establish the form of state that they seek to establish.

II. HISTORICAL EVOLUTION OF SOCIALISM IN INDIA

The ideology of Socialism received nationwide impetus in India when it was supported by great leaders like Pt. Nehru and S.C. Bose. In 1938, a National Planning Committee was appointed by the Congress and its chairmanship was held by Pt. Jawahar Lal Nehru. A blueprint of Socialist economy was prepared by this committee.

In International arena, it is well known fact that in 1930s, capitalist countries like USA and UK suffered a huge decline in their respective economies due to the ‘Great Depression’.⁶ On the other hand, countries following socialist ideology or communist ideology like USSR were prospering in 1950s. This had created a great ideological impact on India, as India was also a growing nation after gaining independence in 1947.

The Constitution also reflected the Socialist ideas through the Preamble and the Directive Principles of State Policy as it tends to achieve an equalitarian society. Thereby India achieved the status of a welfare state. On April 21, 1955, the Annual Session of Congress was held in Avadi where Congress took the resolution that said, “In order to realize the object of Congress

⁵ Ibid.

⁶ Nicholas Crafts and Peter Fearon, Lessons from the 1930s Great Depression, Oxford Review of Economic Policy, Volume 26, Issue 3, Autumn 2010

and to further the objectives stated in Preamble and the Directive Principles of State Policy of the Constitution of India planning should take place with a view to the establishment of the socialistic pattern of society, where the principle means of production are under special ownership or control, production is progressively speeded up and there is equitable distribution of natural wealth.”⁷ Although the resolution was adopted to bring about positive changes, yet it underwent criticism from some section of the people. Some even termed the resolution as a ‘vote catching device’.⁸ In 1976 through 42nd Constitutional Amendment, the word ‘Socialist’ was added to the Preamble of the Constitution of India and made it crystal clear that India decided to follow the ideology of Socialism and become a Socialist state.

III. DEMOCRATIC SOCIALISM IN INDIA

Lenin said, “All nations will come to socialism, this is inevitable, but not all will come the same way”. The form of socialism that was decided to be followed in India was Democratic Socialism. As the name suggests, Democratic Socialism is an incredible mixture of Democracy and Socialism, imbibing in itself characteristics of both the ideals. These terms may appear contrary to each other but it is not so, rather they are complementary to each other.

Congress was elated with the fact that democracy and socialism could run parallel to each other. This is evident from Nehru’s statement, “The Indian genius will be able to evolve a type of socialism suited to Indian conditions.” Democratic Socialism was stressed in the resolution passed in Bhubaneswar by the AICC in 1964.

One of the highlighting features of Democratic Socialism is ‘mixed economy’ that involves a unique mixture of capitalism and socialism. According to Frank Moraes, “What the Indian government aims at is a mixed economy combining the three elements of public enterprise and in between co-operative enterprise on the lines of Scandinavian countries such as Sweden.”⁹ India borrowed the concept of nationalization from Russia and from West it adopted the idea of inclusion of private sector. Both of these concepts guided by Gandhian Socialism lead to the formation of Indian nature of Socialism.¹⁰

India refrains from becoming an entirely capitalist state, as state capitalism may involve use of more cruel techniques to suppress the freedom as compared to private capitalism. As far as private capitalism is concerned, the capitalist subjects the laborer to economic exploitation, but on the other hand, state capitalism may even cause detention of the laborer if it thinks that

⁷ Resolutions on Economic Policy and Programme, 1955-56 (New Delhi AICC, 1956)

⁸ Anuradha Trivedi, Democratic Socialism in India, Indian Political Science Association

⁹ Quoted by N.D, Palmer, in the Indian Political System, p.163

¹⁰ Sarla Devi, Indian Democratic Socialism, Indian Political Science Association.

laborer was engaged in any illegal activity, this leads to the absolute restriction on freedom.

Dr. Rajendra Prasad, in the Constituent Assembly, once spoke about “a classless society for India.”¹¹ India does not believe in suppression of one class by another to gain economic benefits rather it considers that people from all classes should come together and work for the social reconstruction. India is trying to constitute a society free from exploitation and class hatred. It wants to gain the support of all the instrumentalities to construct a society which is just in nature. Indian socialists also want to uplift the downtrodden people like farmers; laborers etc. and remove the economic inequality to keep all the classes at the same level.

IV. SOCIALISM AS ENSHRINED IN INDIAN CONSTITUTION

In *Samatha v. State of Andhra Pradesh*, Supreme Court said, “Establishment of the egalitarian structure through rule of law is the basic structure of the Constitution.”¹² The Constitution makers in India were aware of the social inequality and economic gaps existing between the citizens of this country. So, with a view to remove this social and economic inequality, they incorporated in the Preamble of the Constitution the goal to achieve social, economic and political justice. Then, there are Directive Principles of State Policy that are enshrined in Part IV (Article 37 to Article 51) of the Constitution of India, which seek to achieve economic as well as social equality.

The concept of equality in Indian Constitution is two-dimensional. On one hand it ensures non-discrimination, on the other hand it makes State responsible to adopt affirmative action to uplift the people who are downgraded and suppressed. The provisions that deal with non-discrimination are Article 14, Article 15(1), Article 15(2) and Article 16(2) and those that deal with affirmative action are Article 15(3), Article 15(4), Article 15(5), Article 16(4), Article 16(4A), Article 16(4B), Article 39, Article 39A and Article 41.

In the case of *Minerva Mills Ltd. v. Union of India*,¹³ Supreme Court held that “the edifice of our Constitution is built upon the concept crystallized in the Preamble. We the people, resolved to constitute ourselves a socialist state which carries with it the obligation to secure to the people, justice- social, economic and political. We, therefore, put Part IV into our Constitution containing Directive Principles of State Policy which specifies the socialistic role to be achieved.”

¹¹ Rajendra Prasad, *India's Constitution*, Publications Division, Ministry of Information and Broadcasting, Government of India, reprint 1967, p.8

¹² AIR 1997 SC 3297

¹³ (1981) 1 SCR 206

The effect of Socialism can be seen from the fact that Zamindari system was abolished and Article 31 which guaranteed the fundamental right to property was also abolished in the year 1978.

V. HOW SOCIALISM IN INDIAN CONSTITUTION IS RELATED TO ‘RIGHT TO PROPERTY’?

‘Socialism, reduced to its simplest legal and practical expression, means complete discarding of the institution of private property by transforming into public property and the division of the resultant public income distributed indiscriminately among the entire population.’¹⁴ Marx said, “Capitalism cannot be vanquished without repealing the private ownership of the means of production.”

The objective of Socialism is very well reflected by Article 39(b)¹⁵ of the Constitution which provides “that the ownership and control of the material resources of the community are so distributed as best to subserve the common good.”

It has already been described above that India is a mixed economy that has qualities of both capitalism and socialism. Being a mixed socialism, both public as well as private sectors exist in India. This co-existence of public and private sectors create a lot of problem when it comes to the property rights.

It is well known that Socialism provides for creation of a welfare state, eradication of social and economic inequality, bridging the gap that exist between rich and poor etc. and this very nature of socialism is the reason for the existence of the premise that private property should be abolished in a socialist state.

The abolition of Article 31 and 19(1)(f) has contributed in the advancement of socialism. This can be said because the fundamental right to property also includes within itself the ability to exclude others from access to or use the same. This goes against the ideology of socialism, as socialism provides for sharing and distribution of resources. On the other hand, in a welfare state, the state can’t work to its maximum potential if it can’t acquire property of an individual for public use (like constructing hospitals, schools, dams etc.). This again stands against the basic motto of Socialism. Moreover, this is a natural human tendency that everyone would not let go of their property that easily for the betterment of the society. All these things show that the absolute right to property could act as an impediment to the socialistic actions of the nation.

¹⁴ Encyclopedia Britannica, 14th ed. Vol. 20

¹⁵ Article 39(b) of the Constitution of India, 1950

Due to all above mentioned reasons, the status of right to property was changed from the fundamental right to constitutional right. Initially, right to property was a fundamental right guaranteed under Article 31 and Article 19(1)(f) of the Constitution. Article 19(1)(f) provided citizens with the right “to acquire, hold and dispose of property¹⁶, however it was subjected to reasonable restrictions on the grounds of general public interest and interest of the schedule tribes¹⁷. Article 31 provided “no person shall be deprived of his property save by authority of law”. Article 19(1)(f) provided property rights to the citizens of the country whereas Article 31 had a wider ambit as it included both citizens and non-citizens. Moreover, as they were fundamental rights, they could be got enforced by the Court of law. The phrase “save by authority of law” in Article 31 allowed the state to interfere in the ownership of private property, by acquisition or requisition of the person’s property, given that- the property is to be utilized for the public purpose and the state should also provide the compensation to the owner of the acquired property.

The provisions relating to right to property had undergone many changes through various Constitutional Amendments; even the 1st Constitutional Amendment was with regards to right to property and added Article 31A¹⁸ and Article 31B¹⁹ to the Constitution. In 1978, Article 31 was abolished by the 44th Amendment Act and thereafter the ‘right to property’ no longer remains a fundamental right. Apart from abolishing Article 31, the 44th Amendment Act inserted Article 300A into the Constitution and this has led to the shift in the status of ‘Right to property’ from being a ‘fundamental right’ to a ‘constitutional right’. Article 300A simply says, “No person shall be deprived of his property save by authority of law”²⁰. Now, this making of property right as a constitutional right, is a commendable job done by the government. If ‘right to property’ would have remained a fundamental right then the government could not have been able to acquire private property of people for public use and this would have been against the idea of socialism. Similarly, if the ‘right to property’ would have been declared unconstitutional then this would have been an extremely harsh step taken by the government as then people would have been left with no right with regards to their private property. By making it a constitutional right government has succeeded in establishing a balance, as now as it is no more a fundamental right so government can acquire the property legally by paying compensation to the property owner and if the property is acquired by illegal means then property owner has

¹⁶ Article 19(1)(f) of the Constitution of India, 1950

¹⁷ Article 19(5) of the Constitution of India, 1950

¹⁸ Article 31A of the Constitution of India, 1950

¹⁹ Article 31B of the Constitution of India, 1950

²⁰ Article 300A of the Constitution of India

option to approach the court for the breach of their constitutional right.

At present, there are only four articles in the Constitution that deal with the property and they are Article 31A, Article 31B, Article 31C and Article 300A. Among these, Article 31A and 31B apply restrictions on the private ownership of property instead of providing rights. Both of these provisions have made possible for the government to make laws that can curtail the property rights of people. Article 300A provides for the right to property but this being a constitutional right can be altered by the government if a situation demands that. This has made the idea of socialism stronger with respect to the property rights.
