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CONSTITUTIONAL MANDATES AND SOCIO-ECONOMIC JUSTICE: INDIA'S JOURNEY WITH SOCIALISM

- Nakul Shrivastava[1]

ABSTRACT

This research paper highlights the complexity and ever-evolving nature of socialism, emphasizing its importance in achieving socioeconomic justice and minimizing disparities. It reviews historical texts, court cases, and constitutional amendments related to socialism involving political thinkers, jurists, philosophers, and lawmakers. It delves deep into the Constituent Assembly's discourse on socialism, focusing on the research problem of incorporating socialism into India's constitution while maintaining democratic principles. Key figures like Nehru and Patel influenced discussions. Results showed socialism was implicit in the Preamble and Directive Principles, impacting social justice, economic equality, and welfare measures. Balancing Fundamental Rights with Directive Principles is crucial for achieving social transformation. The text explores the conflict between securing federal character in India's constitutional framework and embracing socialism, focusing on the impact of privatization and liberalization policies on state subjects like land, agriculture, and taxation. It suggests a balanced approach that respects socialist mandates while promoting economic growth. The text emphasizes the importance of upholding socialist principles in India's economic policies, particularly concerningnationalisation, privatization, and socialism. It highlights the need to balance these aspects to protect stakeholders like employees. The research suggests that the State should prioritize fulfilling its obligations without compromising other constitutional aims, ensuring social justice for all segments of society.

Keywords- India, Socialism, Constitution, Economic Growth, Social Justice

WHAT ESSENTIALLY SOCIALISM IS?

[1]Law Centre II, Faculty of Law, University of Delhi

What is the shape that this revolt takes; in other words, what is socialism? In the early decades of the nineteenth century, the common elements of what was emerging as the socialist outlook were falling in place. There grew theConviction that the uncontrolled concentration of wealth and unbridled competition was bound to lead to increasing misery and crises, and that the system must be replaced by one in which the organization of production and exchange could do away with poverty and oppression and bring about a redistribution of the world's gifts on a basis of equality[2]. Early communism developed into no obvious convention, yet a bunch of values and convictions kept intact by the view that private responsibility for ought to be supplanted. However, there was no unanimity about " what is socialism', but Joseph A Schumpeter succinctly defined what is socialism. According to him "*Socialism is that organization of society in which the means of production are controlled, and the decisions on how and what to produce and on who is to get what, are made by public authority instead of by privately-owned and privately managed firms*[3]*"*

Across the table several political thinkers, eminent jurists and philosopher tried giving a concrete and precise definition of the word 'socialism' but failed miserably. Even a petition seeking a clear and concise definition of the term "socialism" was submitted to the Honourable Bombay High Court. The court, when deciding the petition, noted that it would be extremely difficult to provide a precise and concrete definition of socialism. It made it an obiter dicta that any attempt to define socialism would bring to mind these renowned words of CEM Joad, a prominent Fabian Socialist, *Socialism was like a hat which had lost its shape because too many people had worn it. Socialism is a chameleon-like creed that changes its colour according to the environment.*[4]

Establishing an equitable society requires adhering to the untouchable concept of socialism. This comprehension is crucial, particularly given the severe socioeconomic disparities prevalent in the Indian context. The socialist agenda was evident even though the word "socialist" was not mentioned in the original Preamble. This was confirmed by the {Forty-Second} Amendment Act, 1976, which added the word "socialist" to the Preamble and formally recognized the goal of the constitution. The goal of the socialist insertion movement was to minimize socioeconomic disparities as much as possible.

[2] Kolakowski, Leszek {2005}, Main currents of Marxism. New York: W.W. Norton & Company, ISBN 978-0-393-32943-8
[3] Schumpeter, Joseph A., 1883-1950. Capitalism, Socialism, and Democracy. New York: Harper & Row, 1962.
[4] 2013 SCC On Line Bom 990

Socialism is a distributive justice movement that seeks to achieve socio-economic justice by allocating the community's material resources in a way that advances the common benefit.[5] Furthermore, what precisely is socialism? The Supreme Court states that the essence of socialism is the ownership, control, and distribution of national productive wealth for the good of the community and the rejection of a system that exploits its resources for personal gain. The language and ideas of Article 39{b}[6], however, largely mirror the well-known socialist philosophy as generally articulated by socialist writers.

The authors of the Indian Constitution chose to follow a slow-moving, laissez-faire economic model. This is clear from the ideas expressed by the Indian National Congress at its Avadi session when it declared that socialism was its ultimate objective. A strategy like this would unavoidably need significant government involvement in the way the economy functions overall. The numerous events that occurred throughout the 1970s and 1980s demonstrate how the state has been attempting to nationalize itself to bolster its socialist stance.

DISCOURSE IN CONSTITUENT ASSEMBLY ON SOCIALISM

The Assembly's faith in parliamentary government was additionally reinforced in enormous measure by the scholarly or close-to-home responsibility of numerous individuals to communism. Almost everyone was Fabian and Laski-ite enough to believe that "socialism is everyday politics for social regeneration" and that "democratic constitutions are inseparably associated with the drive toward economic equality." Although they ranged from Marxists to conservative capitalists, each had his definition of "socialism." The Assembly's gathering in the Goal and the discussion on it demonstrated that the constitution should be committed to some type of communism and the social recovery of India, and none yet Socialists would have contradicted the Congress Communist Coalition's goal of 1947 expressing that there could be no communism without a majority rule government[7]. These concepts had almost universal social and political support by the time the Assembly was formed. Because of Nehru's influence on Indian social thought and the country's obvious social needs, they may have been even more prominent on the Indian scene. While at Cambridge, Nehru was

[5] M.P. Jain, *Indian Constitutional Law 1375* {Lexis Nexis Butterworths, Wadhwa, 5th Edn 2008}.
[6] Constitution of India 1950, Article 39 {b}

[7] Resolution adopted at the Kanpur Conference, 28 February 1947, Praja Socialist Party, PSP, *A Brief Introduction*, p. 99; cited in Saul Rose, *Socialism in Southern Asia, p. 29. See Also A. Narendra Dev, Socialism, p.95.*

interested in Fabianism. [8]He was also heavily influenced by his studies of Marx and his 1926-1927 trip to Europe, including Russia[9]. Theosophist Annie Besant, one of the original Fabians, was a close friend of the Nehru family. However, before the Constituent Assembly, he shifted from a Marxist or socialist of the Laski school to an empirical gradualist.[10] This does not imply that Nehru abandoned socialist

ideals. This indicates that he pursued his ideals in a manner that was less doctrinaire and more empirical. By 1945, Nehru had no time for doctrine's finer points because he was focused on individual and social issues. "His activities are largely guided by ideals of democracy and economic betterment of the masses," wrote a close colleague of Nehru in 1946, even though he declared himself a "socialist." Many Indians had adopted this secular, practical approach to meeting India's social needs, perhaps without their knowledge. Even though there was an obvious distinction between Nehru and different individuals from the Constituent Get together of 'communist issues' particularly Sardar Vallabh Bhai Patel. One might hypothesize that it was mainly Patel's moderate impact that held the Constitution back from having a more prominent communist substance than it has; maybe it was regarding his desires that Pandit Nehru discarded the word ' Communism' from the Resolution. However, both of their attitudes were based on a humanitarian perspective. The Directive Principles' provisions skilfully combined the Nehruvian and Gandhian models to direct socioeconomic change. Putting guiding principles at the centre of government was made possible in part by socialism's dominance as the Meta ideology in the post-independence era. There were times when the principles of socio-economic democracy seemed to clash with fundamental rights, resulting in a dispute between the judiciary and Parliament on the order of importance.[11] Configuring the constitutional stance on the importance of Directive Principles of State Policy and its relative standing regarding Fundamental Rights will be made easier with the examination of discussions held during the Constituent Assemble. For several reasons, India needs socialism. Significant societal transformation was required to address India's complex issues. This called for the modernization of society, politics, and economy, as well as the

[8] GRANVILLE AUSTIN, THE INDIAN CONSTITUTION: CORNERSTONE OF A NATION 48 {1966}
[9] Brecher, Nehru, p.48; Nehru, Discovery of India, pp. 15ff
[10] GRANVILLE AUSTIN, THE INDIAN CONSTITUTION: CORNERSTONE OF A NATION 55 {1966}

[11] Bank Nationalisation, Privy Purse Abolition etc.

political and emotional unification of all societal segments in the endeavour to establish the country.[12]

However, for the majority of Assembly members, what was more important was not that the Constitution include socialism, but that a democratic constitution with a socialist bias be drafted so that the nation could become as socialist as its citizens desired or needed in the future. The constitution that members of the Constituent Assembly drafted was, in general, infused with the objectives, humanitarian underpinnings, and some of the methods of social democratic thought.

Article 1, clause 1[13] was revised on November 15, 1948, by Professor K.T. Shah. The new clause reads,

" India shall be a secular, federal, socialist union of states."[14]

With much hesitation, Professor Shah acknowledged in front of the parliament that calling the current condition of India a socialist union would not accurately describe it. The addition of the word "socialism" to the constitution was at Professor Shah's request. According to Professor Shah, "socialism" is a state in which everyone is guaranteed equal justice and opportunities and is expected to contribute via labour, intelligence, and work.

On the other hand, Dr. Ambedkar fiercely opposed Professor K.T. Shaha's suggested Amendment and chose not to adopt it for two reasons. *Firstly*, the people themselves must choose how society should be structured on the social and economic fronts,following the demands of the times. He said that putting it in the constitution itself would completely undermine democracy. He was hesitant to agree that the constitution itself stipulates that the State's social organization must assume a certain shape since, in his view, doing so would violate the people's right to choose the social structure in which they choose to live. He made a statement while opposing the same: "*If these directive principles to which I have drawn attention are not socialistic in their direction and their content, I fail to understand what more socialism can be.*[15]He went on to say that it is entirely feasible for the majority of people to believe that society is better off under socialism rule than it is under capitalist rule today. However, it is entirely feasible for intelligent individuals to create an alternative social

[12] Pre- Marxist Socialism and the Supreme Court of India {1983} 4 SCC J-3
[13] Constituent Assembly Debates; Volume 1 Friday, the 13thDecember 1946.
[14] Constituent Assembly Debates; Volume 1 Friday, the 13thDecember 1946.
[15] Constituent Assembly Debates, Vol. VII, 15 November 1948

structure that may prove to be superior to the socialist structures of the present or future. He did not think it was feasible for the Constitution to force the people to live in a certain way and to take away their right to make their own decisions.[16]

Secondly, he contended that in addition to the Fundamental Rights enshrined in the constitution, we have incorporated additional parts aboutthe Directive Principles of State Policy. He contended that since the Constitution already incorporates the socialist ideas put out by Professor Shah, there is no need to restate them in Article 1. Hence, the Amendment proposed by Professor Shah failed, and the term 'socialism' could find its way explicitly in the constitution. Thus, the Preamble remained unaltered before the 42nd Amendment.

There was not even an iota of doubt that the Constitution was socialist from the start, even if the term "socialist" was added to the Preamble by the 42nd Amendment in 1976[17]. It appears that the omission of the word socialist stems from a lack of agreement about the definition of socialism and the type of socialism that would work best in India. Granville Austin, in his book on the Constitution of India. Explains:

> *"What was of greatest importance to most Assembly members… was not that socialism be embodied in the constitution, but that a democratic constitution with a socialist bias be framed to allow the nation in future to become as socialist as its citizens desired or as it needs demanded.[18]*

This "socialist bias" was evident even in the Preamble's original wording, which is recognized as a fundamental component of the Constitution. According to the preamble, among other things, the Constitution seeks to provide to all of its citizens social fairness, economic justice, political equality, and equality of opportunity[19]. The founding fathers intended to utilize the constitution to bring about a social revolution, therefore, their goals went beyond simple aspirations. The Fundamental Rights and Directive Principles of State policy provisions—which Austin referred to as the "conscience of the constitution"—were the primary instruments used to bring about this kind of social transformation[20].

A few of the Fundamental Rights were created expressly to create an equitable society. For instance, one may look to the laws that forbid discrimination based on caste[21], among other

[16] Constituent Assembly Debates ; Volume 1 Tuesday, the 17thDecember 1946
[17] https://timesofindia.indiatimes.com/city/mumbai/pil-seeking-definition-of-socialism-quashed/articleshow/21889499.cms
[18] GRANVILLE AUSTIN, THE INDIAN CONSTITUTION: CORNERSTONE OF A NATION 43 {1966}
[19] Constitution of India, Preamble.
[20] GRANVILLE AUSTIN, THE INDIAN CONSTITUTION: CORNERSTONE OF A NATION 50 {1966}
[21] Constitution of India 1950, Article 17.

things; equality of opportunity in public employment matters; affirmative action for citizens from lower social and economic classes; the abolition of untouchability; the freedom to organize into associations and unions[22]; the outlawing of forced labour and human trafficking[23]; and the prohibition on hiring minors under the age of 14 for dangerous job[24]s. The founding fathers included several provisions in the Constitution to create an independent judiciary, which they saw "as a bastion of rights and justice," to guarantee that FRs did not remain meaningless statements[25]. Both the Supreme Court and the High Courts were given the authority to uphold the Fundamental Rights. The judiciary has the authority to examine the legality of constitutional changes in addition to legislation and executive acts. It has the last word on how the Constitution should be interpreted, and its directives, which are backed by the authority to penalize for disobedience, apply to every citizen of the nation. The Supreme Court has rendered decisions with broad ramifications since its founding, affecting not only the resolution of legal disputes but also the formulation of public policy, the development of the rule of law, and constitutionalism.[26]

The most obvious indicator of the socialist nature of the Indian Constitution, however, comes from the Directive Principles, found in Part IV, Articles 37 through 57. The state must try to promote the welfare of the people by guaranteeing and safeguarding as efficiently as it may a social order in which justice, social, economic, and political, shall influence all the institutions of the national life,' according to Article 38, for instance. {Article 41} guarantees the right to work, while Article 42 provides maternity leave and equitable and humane working conditions.[27] Living wages for workers are covered by Article 43}, and workers' involvement in industry management is covered under Article 43-A}. Another important Directive Principle reads as follows:

“The State shall, in particular. Direct its policy towards securing –

[a] that the citizens have the right to an adequate means of livelihood;

[b] that the ownership and control of the material resources of the community are so distributed as best to subserve the common good

[22] Constitution of India 1950, Article 19{1} {c}
[23] Constitution of India, Article 23
[24] Constitution of India, Article 24
[25] Constitution of India 1950, Articles 50,124,125,141,142, 217, and 220-222.
[26] See Gobind Das, The Supreme Court: An Overview in SUPREME BUT NOT INFALLIBLE: ESSAYS IN HONOUR OF THE SUPREME COURT OF INDIA 16-47 {B. N KIRPAL et al eds.., 2000} for an analysis of some of the landmark judgements delivered by the Apex Court during these years.
[27] https://archivepmo.nic.in/drmanmohansingh/speech-details.php?nodeid=953

[c] that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment..”[28]

The socialism embodied in these rules, according to critics, is meaningless because the DPs are not subject to legal action. It is important to remember, however, that the Constitution states that DPs are "nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws". Furthermore, it should be noted that the Constituent Assembly was the only body to distinguish between the positive and negative duties of the state; leaders of the independence movement did not. In reality, even the Supreme Court has acknowledged—after a brief divergence—that Directive Principles are not more important than Fundamental Rights because they are not subject to legal challenge; rather, the two are complementary, and the Directive Principles are a means to achieve the goals indicated in Directive Principles.

AN UNSETTLED DICHOTOMY: SECURING FEDERAL CHARACTER OR SOCIALISM

From the beginning of the discourse on adoptinga model of advancement, the Indian constituent Assembly was hesitant to embracesocialism as a model of development, its intention was only to preserve democracy tempered with social equity or law-basedsocialism that guaranteesreasonable compensation and fair rent to the cultivators.

The Indian structure, not at all like the American structure, does not providebreak even with representation to the states within theCouncil of States, an insoluble body beneath Article 83[29] whose individuals are chosen by the chosenindividuals of the State LegislativeAssemblybeneath the framework of representation by the single transferrable vote. That there's much differencewithin the representation between one state and another, which is apparent from the IV Schedule of the Indian Constitution, so much so, on the off chance that a radical alterwithin the nature of the constitution is to be introduced by a simplemajority of either house as endorsedin the first part of Article 368, by Amendment of Fundamental Rights, it may mean that the representatives of a specific state in Parliament, whose constitution is aiming to be changed, may have no voice in theshaping of the welfare of the state, and may be voted down by the majority of members of other states in being forced to alter its constitution much against its will. It must be recollected that land,

[28] Constitution of India, Article 39
[29] Constitution of India, Article 83

agriculture, relation of landlord and tenant, collection of rent, transfer and alienation of land, rights in and over land, taxes on land, bequest, taxes on agriculturalincome, land revenue, record of rights, alienation of revenues, duties in succession to land, acquisition of land, and requisition of land etc, are state subjects, over which States have essentialinterest and control, and it will be pity if they are not consulted while changing their Constitution and in this manner these particular subjects, are pushed on them by a majority of other states.

The Indian constitutiondetermining its source of sovereignty does from the individuals of India, and not just from the individuals of the States, has constituted a compact of States into the Union Republic, and beneath Article 368[30] "representation of states in Parliament" could be a subject of amendment to be voted by the cumbrousprocedure of getting, not less than the approval of one half of the Legislatures of the States other thanthe specifiedmajority in Parliament. Thus, the presence of states as a portion of the federal compact, which may be a condition precedent to its representation beneath Article 368[31] , cannot be put to a conclusion by a Legislative Act of Parliament. The federal character of the Constitution being in this wayconstant and free from amending power, so as well is the democratic character free from amending power, as both have been made as insoluble and indistinguishable characteristics by the same instrument of Government, the Sovereign Democratic Republic made by the constituent assembly out of territoriesbelongingpreviously to neither of the descriptions. The Independence Act of 1947[32] has certainly laid down the changelesshighlight of the Indian structure. This character of SovereignDemocratic Republic is cherishedwithin thepreface to the Indian Constitution which subsequentlyembracessanctions and gives to the individuals of India ' this constitution' in arrange to secure to all its citizens certain Fundamental Rights of Justice, freedom and uniformity to promotefraternityguaranteeing the dignity of the person and the unity of the Country. It is 'this constitution' alone that's amendable beneath Article 368. Subsequently, the amendment to the Constitution cannot alter essentially the character of the Constitution which must be preserved by the directives of the preamble.

Should socialism be imposed in India, the topics of land, agriculture, and other things included in the seventh schedule will no longer be state subjects due to the intrusion of federal legislation brought about by the amendment or repeal of the Fundamental Rights. Instead, these subjects will essentially become Union subjects due to the requirement for

[30] Constitution of India, Article 368
[31] Constitution of India, Article 368
[32] Indian Independence Act, 1947

uniformity in legislation, or at the very least, they will become concurrent subjects. Thus, socialism cannot be introduced by amending the Fundamental Rights through the process of obtaining a simple majority in parliament because this will have an impact on the state list in the seventh schedule. If at all possible, socialism can only be introduced by obtaining the additional ratification specified in the second proviso to Article 368 of the Constitution.

If socialism is attempted to be introduced through an Amendment to the Fundamental Rights, the states will lose all land-related taxes, estate duty, land revenue, etc., as previously mentioned. The destruction of such vast sources of income will financially ruin the states, and if the financial conditions of the states are such that an emergency under Article 360[33] is declared, the President may be required to suspend the Constitution's machinery under Article 352[34], though this can only be done temporarily and cannot dissolve the permanent federal compact. The adoption of Socialism in India, which would destroy the States, could not have reasonably resulted in such a dreadful economic position for the States and therefore, an implicit prohibition against the introduction of socialism can be seen in the constitution.

CONSTITUTIONAL OBLIGATION OR ECONOMIC GROWTH?

At various times and in various ways, we have attempted to unite the ideas of free market ideology with our particular brand of constitutional socialism. When the government of India implemented the New Economic Policy of Privatization, Liberation, Disinvestment, and Deregulation in 1991, the country started the process of marrying.[35] Because the government did not change any Constitutional provisions, experts debated whether the New Economic Policy was constitutional in light of this clear economic move away from socialism. The Supreme Court's decision to affirm the constitutionality of privatization and disinvestment in certain circumstances appears to have resolved the matter. However, there are still concerns about the government's ability to uphold the constitutional duty found in the Directive Principles. Recent judicial reluctance to become involved in development initiatives, even when it is obvious that they conflict with the interests of some marginalized groups in

[33] Constitution of India, Article 360
[34] Constitution of India, Article 352
[35] Krishna K. Tummala, Administrative Reforms in India in ADMINISTRATIVE REFORMS IN DEVELOPING NATIONS 29,42-43 {Ali Farazmand ed., 2001}

society, is what has given rise to these misgivings.[36] The Indian Supreme Court has gone so far as to make the following observations in one case:

> *"Socialism might have been a catchword from our history[37]. It may be present in the Preamble of our constitution. However, due to the liberalisation policy adopted by the Central Government from the early nineties, this view that the Indian society is essentially wedded to socialism is definitely withering away.[38]*

A recent instance offers a clearer indication of this seeming conflict between the free-market principles and the socialist mandate of the Constitution. An NGO called the Good Governance India Foundation petitioned the Supreme Court to have the word "socialist" removed from the Preamble of the Constitution since it went against both the original meaning and the realities of modern economic affairs of the country.[39] Even though the Court denied the petition, citing the fact that socialism might refer to a variety of things (such as citizen assistance programs), the case demonstrated that conflict could occasionally occur. The fact that some leftist political parties, civic society, and trade unions have continuously resisted economic reforms is another indication of this constitutional conflict in the greatest democracy in the world, which extends beyond the court system. Numerous academic studies also highlight the fact that the impoverished population has not benefited from economic changes, widening the gap between the affluent and the poor. [40]Owing to these popular protests, the Indian government was forced to gradually tighten economic regulations.

However, it is reasonable to state that the Indian government is conscious of the widening economic gap and has not entirely abandoned its constitutionally mandated social welfare obligations.[41]To "provide every household whose adult members volunteer to do unskilled manual work not less than one hundred days of such work in a financial year by the Scheme made under this Act," the government, for example, passed the National Rural Employment

[36] For example, the Supreme Court declined to interfere in the height of the Narmada dam which displaced several thousand tribal people. *See Narmada Bachao Andolan v. Union of India {2000} 10 SCC 664;* Ramaswamy R. Iyer, *Abandoning the Displaced*, THE HINDU, May 10,2006,
[37]https://core.ac.uk/download/pdf/267982108.pdf
[38] State of Punjab v. Devans Modern Breweries Ltd, 2004 11 SCC 26,148
[39] Shruti Rajagopalan, India's Socialist Constitution, THE WALL STREET JOURNAL, January 22, 2008.
[40] ''The image of an 'India Shining' Post 1991 is hardly a representative or fully accurate portrayal of a country where over 100,000 villages have never heard a telephone ring. While the economic reforms of the 1990s did much to liberalise and stimulate growth, the direct beneficiaries were more affluent urban dwellers. About a quarter of India's one billion- plus population, who constitute a third of the world's poor, continue to live in poverty."
[41] A Critical Analysis of the Role of the Judiciary in Interpreting the Directive Principles of State Policy with respect to Fundamental Rights {2010} 3.1 GNLU L. Rev.53

Guarantee Act in 2005[42]. Instead, the research above aimed to demonstrate the tensions that arise when a socialist constitution and the free-market ideology are married, conflicts that manifest themselves both inside and outside of governmental institutions.[43]

It is well known that judges are reluctant to make decisions about matters of policy. In reality, courts decline to become involved in certain cases for fear of being accused of "overstepping their bounds[44]. After examining several of these examples, it is reasonable to conclude that the courts would only become involved in an administrative policy decision if it was based on bias, was arbitrary, discriminatory, or was made dishonestly[45]. Numerous case laws and works of literature support the court's decision in this case. Judicial examination of policy concerns is more interested in the process of decision-making than it is in the final verdict or the case's merits. The court will be guilty of usurping authority if it replaces an administrative body's decision with its own and changes one policy for another. Judicial scrutiny applies to the decision-making process. But as seen by the Supreme Court's repeated rulings overturning policy choices for being arbitrary and irrational, it all relies on the particular facts and circumstances of each case.[46]

Therefore, when a policy choice has potentially devastating effects, it is important to evaluate the wisdom of non-interference. Sometimes, policy actions serve as a smoke screen, claiming protection against rights violations. The executive is responsible for determining the scope and form of policies, and writs are often not used to become involved in policy concerns. Therefore, we must attempt to analyse the social impacts of the doctrinal ideas spread by the courts before evaluating the well-known claim that judicial socialism is promoting social transformation.

[42] The National Rural Employment Guarantee Act,2005, S. 3{1}. The Act also makes provision for 'unemployment allowance' in case of failure to provide employment. The National Rural Employment Guarantee Act, 2005 S. 7{1}.

[43] https://prsindia.org/files/bills_acts/acts_parliament/2005/the-national-rural-employment-guarantee-act-2005.pdf

[44] " Judicial Review is a great weapon in the hand of the judges; but the judges must observe the Constitutional Limits set by the Parliamentary system upon the exercise of this beneficial power" – Lord Scarman in *Nottinghamshire County Council v. Secretary of State for the Environment, {1986} 1 ALL ER 199.*

[45] M.P. Oil Extraction v. State of M.P., {1997} 7 SCC 592. In this case, it was held that the administrative bodies are entitled to pragmatic adjustments which may be called for by the particular circumstances. Therefore, for example, the courts have no authority to strike down the terms of the tender prescribed by the government because it feels that some other terms, in the tender would have been fair, logical or wiser. Hence, the court can interfere only when the policy decision is arbitrary, discriminatory or mala fide.

[46]

The BALCO Employees Union v. Union of India decision, in which the court determined that the government's disinvestment program could not be contested, exemplifies the aforementioned judicial stance that has declined to meddle in matters of economic policy.[47]The court maintained that it would only consider economic policy issues in cases where the government had violated a statute or the constitution, stating that the executive branch is the best arbiter of economic policy. The statement went on to say that courts should be extremely hesitant to consider policy problems through public interest lawsuits and that they are not meant to handle national administration. Essentially, the court accepted a liberalization program even if it went against the socialist mandate of the constitution.[48] The court , in this instance, did not even consider socialism. In this way, a policy of liberalization has just received legal approval.

In view of the preceding debate, the question that emerges is whether the economic strategy of opening up the economy and thriving for economic growth has taken the place of socialism as the ultimate aim of the constitution. It is general knowledge that policies affecting the bulk of the population in the nation should be in line with the democratic and socialist ideals that underpin the administration and operation of the nation as a whole. Another point that comes up is whether the state is failing in its fundamental responsibility to attempt to achieve the aims of the constitution, therefore can the court rule such a policy unconstitutional?

In this case, there is even another contradiction. The court held in M. Nagaraj v. Union of India[49] that a provision must be demonstrated to be obligatory for the legislature to abide by for it to be considered a component of the basic structure. In S.R. Bommai v. Union of India[50], the court expressly declared that socialism is a component of this fundamental framework; yet, a number of judicial dicta have determined that socialism is not legally

[47] {2002} 2 SCC 333: AIR 2002 SC 350
[48] The Court in BALCO Employees Union v. Union of India, {2002} 2 SCC 333: AIR 2002 SC 350, also held that. “In matters relating to economic issues, the Government has, while taking a decision, right to “trial and error” as long as both trial and error are bona fide and within limits of authority. There is no case made out by the petitioner that the decision to disinvest in BALCO is in any way capricious, arbitrary, illegal or uninformed. Even though the workers may have interest in the manner in which the Company is conducting its business, in as much as its policy decision may have an impact on the worker’s rights, nevertheless it is an incidence of service for an employee to accept a decision of the employer which was been honestly taken and which is not contrary to law.”
[49] {2006} 8 SCC 212: AIR 2007 SC 71
[50] {1994} 3 SCC 1.N

binding on the legislature. Regarding socialism's position in the Constitution, there is a great deal of misunderstanding.

In this context, it is stated that to resolve the duality, a balance must be achieved; otherwise, socialism's intended outcome would take on the characteristics of a political instrument meant to further particular government agendas.[51]The court dismissing an economic program as unconstitutional because it transgresses a core constitutional norm is not the solution. Striking a balance is more important than adopting an extreme perspective on the matter. The Indian government has discovered that privatization is the best means of attaining the necessary economic growth, given the fact that nationalization efforts in the country have not been able to meet the objectives for which they were initially introduced. It is argued that such a program does not contradict the idea of socialism. Socialism does not always entail government ownership and management of businesses intended to improve the standard of living for the populace. In the greater interest of society, the state may decide that privatization—as a means of promoting economic growth and putting an end to red tape and corruption—will be a more effective approach in a given circumstance than nationalization. This does not imply that the objective of the constitution is undermined. In the end, the State must adjust its policies to meet the shifting demands of the populace.

More controlled privatization would be one of the potential strategies that may be used. In this case, state control mostly refers to managing how the privatized industry operates rather than ownership. As part of the privatization process, for instance, the state might create necessary regulations for the continuation of pension plans, employee tenure security, development opportunities, and similar matters. The goal of pursuing such a position is to ensure that workers' rights are not compromised in any manner; in other words, workers should have the same rights and entitlements that they previously had under the State employer, to the greatest extent practicable.

In addition, the State ought to take the initiative in interacting with the sector following deregulation, privatization, and liberalization. This means that the State must take all necessary steps to guarantee the acquirer's compliance and conduct regular monitoring of the privatized company's operations. Additionally, the State need to require the acquirer to provide thorough reports on the operation of the sector regularly. This activity aims to establish trust in the minds of the workers and the general public, in addition to holding the

[51] Greenstone, JD, "Against Simplicity: The Cultural Dimensions of the Constitution ", {1988} 55 U. Chi L. Rev. 428

State and the acquirer accountable for the conduct. By controlling the privatized company's operations in this way, the state may be able to accomplish goals that it could not have directly accomplished by nationalizing the industry.

CONCLUSION

In light of the foregoing discussion, it is thus argued that the fundamental tenets of socialism should not be compromised in a way that adversely affects the interests of the stakeholders, in this case the employees, to pursue a policy of opening up the economy and skewing the application of socialist principles in it. Striking a delicate balance between nationalization, privatization, and socialism's constitutional mandate is necessary. The state ought to consider every policy before selecting the most likely course of action. Honourable Supreme Court in G.B Pant University of Agriculture and Technology[52] had held that

"The socialistic concept of the society as laid down in Parts III and IV of the Constitution ought to be implemented in the true spirit of the constitution. The Supreme Court has on more occasions than one stated that democratic socialism aims to end poverty, ignorance, disease and inequality of opportunity".

Every time a new situation arises; the state should consider the advantages and disadvantages of every policy before selecting the most practical course of action. Since the Constitution is a living document, its interpretation must change with the times. This is because other constitutional aims would be compromised if the state is unable to fulfil its obligations. What is being emphasized is the fact that the State is not mocking socialism by implementing a privatization agenda. In the Indian setting, socialism has several distinctive features that may be adjusted to suit the demands of the community. Socialism should not be viewed as only a notion or an ideal; rather, it should be applied to all aspects of daily life.

A writ court's responsibility is to further the Constitution's goals and the idea of social justice that it outlines. The goal of social justice as defined by the constitution, is to guarantee and impart justice to all segments of society by giving them access to equal opportunities and facilities and by eliminating any barriers that prevent impoverished citizens from securing and leading dignified lives. As stated in Article 14[53] of the Constitution, social justice is

[52] G.B Pant University of Agriculture & Technology v. State of U.P., {2000} 7 SCC 109
[53] Constitution of India, Article 14

actually nothing more than a comprehensive strategy to eliminate social imbalance and uphold equality in terms of giving all people of this nation equal access to opportunities and facilities.