

Balancing Individual Rights with Social Welfare: An Analysis of Judicial Interpretations in India

Maisnam Loyalakpa Meitei

Research Scholar, Department of Law, Manipur International University, Imphal 795140,
Manipur, India

Email: maisnamloyalakpameitei@gmail.com

Abstract

The relationship between Part III and Part IV of the Constitution of India implicates a captivating legal and philosophical gap. These two Parts under the Constitution often seemingly represent odds when the questions and issue of individual rights and social welfare mandates by Part III & Part IV of the Constitution in motion. This poses serious imbalance and causes complications in between the two Parts of the Constitution. This paper seeks to exhibit the role of the judiciary, and how the judiciary harmonized the imbalanced mandates of the Constitution giving way out ultimately the governance of the country then and now. The complexities of the judicial pronouncement though is insanely complex than any reader thought of, yet this paper tries to lay only a few brief crux.

*Post-independent India, but in the first decade, legal positivism often led to guide the judicial pronouncements. This often led to giving effect to social legislation than fundamental rights of the individual. The mandate of Part IV of the Constitution gain considerable recognition than individual fundamental rights. Prominent case like *Re. Shankari Prasad* case is an exemplary landmark judicial pronouncement. Denying the fact that only until the coming of *Re. I.C. Golaknath* case and the culmination of *Re. Kesavananda* case finally led to surpass all the earlier judgments. These later cases' pronouncement of the Apex court gives unshakable prominence of the fundamental rights of the individual. This paradigm change balances the conundrum between Part III and Part IV of the Constitution by propounding the Basic Feature theory in the Constitution. This harmonization through judicial interpretations of the Supreme Court of India in between the Fundamental Rights and Directive Principles of State Policy became fundamental to policy making and ultimately in governance.*

With this analysis, the paper tries to illustrate the role of the judiciary, her impeachable virtue to check and balance; the brave dexterity of the judiciary and judicial interpretation, and her triumph of giving justice to fundamental rights of every individual and social welfare at large.

Keywords: fundamental rights, judiciary, judicial interpretation, Part IV, etc.

Introduction

Indian Constitution the written document is of truism for the people by the people. The sovereignty lies within this document. The framer of the Constitution drafted keeping in mind the peoples' welfare the paramount consideration. It is based on greater good of the society.

Still draftsmen however trivially left not evenly the importance of individual fundamental rights. With the gone of the time, the dynamic society go in parallel with the organic Constitution. The intertwined between the two Parts pose serious problems at times and often led to raises before the forum like Apex court. The mandates prescribed in the Constitution more than often pose issue because the actions of the State in practical is something very tactical and complex.

The complexities and issue lies on how the prescribed fundamental rights of few individuals could be compromised in consideration of greater good and welfare of the larger people. This same issue and dilemma is conversely pose the same complexity. The interplay between the two Parts is something which plays the sides of a coin. Without one, cannot exist with another. The socio-economic goal of the society may not be considerably compensated if certain fundamental rights is contravened. Say for example, the agrarian reforms by building the block of 9th Schedule in which Land Reforms related legislations were compartmented in the 9th Schedule under the Constitution. This certainly led to the abolition of Zamindari system in many parts in India. The exemplary case may be cited *Re. I.C. Golaknath* case. It is the judiciary which has to steps to look the State excess and legislative imbalances leading forward a way out for the ends of sustainability.

Indian judiciary post-independence plays a very important role in the first decades through based on analytical positivist legal philosophies. That is law is the command of sovereign, who he breached shall be condemn within the province of what law says. An example is Article 368 of the Constitution prescribed in the Part XX for Amendment of the Constitution. This Article has been interpreted by the Apex court not beyond the province and limitation bounded in the Constitution. In the case of First Amendment, 1951 was challenged before the Apex court by Shankari Prasad Deo for declaring the amendment unconstitutional and invalid. This was on the ground of State's land reforms legislation on the basis of Part IV somehow breached the fundamental rights. The court verdict in favour of the First Amendment and declared Directive Principles of State Policy should be given priority over fundamental rights. Because the land reform legislations are for the socio-economy good of the society at large. This model of interpretation on the basis of law as the command of sovereign through analytical positivism has been overturned after decade when the *I.C. Golaknath* and *Kesavananda Bharati* cases in 1967 and in 1973 declared fundamental rights as paramount consideration. The dynamics of society and organic nature of Constitution is since then harmonized through the judicial pronouncement.

In fact judiciary has the far reaching role taking place since post-independent India till date, especially from late 1960s. The judiciary plays pivotal role through check and balance. This is indeed achieved because of judicial independence under the founding basis of Montesquieu's separations of power. The shaping of the present day India and honoring the sanctity of the Constitution through equitable principles balanced the framework of the Constitution and inherit the offspring of the noble principles of the Constitution givers. Judicial Activism vs. Judicial Restraint

Critical Analysis on Judicial Activism vs. Judicial Restraint

The debate between judicial activism and judicial restraint is one significant contentious issue in constitutional law. Each has its own implications leading to conflict between fundamental rights, directive principles, social welfare, and the power and role of the judiciary.

Judicial Activism

The stepping into the excesses of the State and balancing the State's actions which necessarily includes the interpretation of Constitutional mandates through interpreting beyond the boundary of the Constitution may be called as judicial activism. Courts are usually pro-actively involved through the locus of the party or through the *sou moto* of the court to filter and balance the State's actions. Also included is judicial activism.

Strengths:

Social Justice: Judicial activism has played a crucial and pivotal role in advancing social justice and economic justice in India. Exemplary judgments like *Re. Vishakha v. State of Rajasthan* (1997) and *M.C. Mehta's* cases have addressed pressing societal issues, enhancing individual rights, environmental rights, and economic development.

Accountability: Through Public Interest Litigation (PIL), as part of judicial activism, government is accountable for its and every action through the judicial check and balance on the basis of judicial activism. This is to meet the Constitutional obligation cast and vested upon the Government. This dictate and mandate through the judicial verdict and activism cannot be defied by the Government.

Interpretation through dynamics: It allows the organics of Constitution and the subordinate statutes to intake, the principles of Constitutional framework and inherent objectives of this written Constitution remain the *Grund Norm*.

Weaknesses:

Overreach: Sometimes, controversies ought to have arisen from several sections on the ground of overreaching activism of the judiciary. This became a rebuttable dilemma as it sometimes at some point of time seemingly true, the encroachment of the separation of powers. The contentions remained valid on the ground of the sanctity and sacrosanct of the judicial review might be misused by the judiciary. However, in the judiciary, evidence is necessary for every rebuttal, no one can be assailed on baseless contention. Ultimately, the judiciary plays no role to negate fundamental rights and social welfare.

Expertise Issue: This may be one part that is the lack of expertise of the Judges in every field. In our judicial system, whether in criminal or in civil matters, optimal achievement could be reached through experts for gathering evidence and exhibit. No doubt, judges lack no stone unturned, they decide on evidence and circumstance with the aid of special subject experts.

Nowadays, attitude training and holistic approaches has been applied by judges. So issue of expertise is negated.

Inconsistency: Due to the wide discretion granted to the judiciary, judicial activism sometimes happened to be arbitrary. This could not be rule out that, one in thousand judges might have applied their mind partially leading to seemingly bias like judgment pronounced.

Judicial Restraint

This is other side of the judicial activism. Here, judiciary is judicially restraint from encroaching the power and discretions of the legislature and executives. It limits the power of judicial encroachment. This is based on the philosophy of separation of power by Montesquieu preserve the Pure Theory of Law within the school of analytical jurisprudence or positivist philosophy.

Strengths:

Preserving Separation of Powers: This preserves the separation of powers, and upholding the legislature and executives operates within their own provinces independently under the Constitutional domain.

Democratic Legitimacy: The will of the people as practices in both the Houses of the Parliament through representatives is being respected. This is done only because of the principles of judicial restraint.

Stability and Predictability: This judicial restrain sometimes and ought to have often contributes the stability of the judiciary and executives and legislatures on the other hand. This restraint opposed the arbitrary interventions and legal encroachments over other.

Weaknesses:

Risk of Injustice: Judicial restraint may lead to injustice as it will freehand the overreached executive actions and arbitrariness. It may also lead to failing in protecting the rights of the individuals. This ultimately may bring failure of the governance towards development amongst other.

Limited Adaptability: If the dynamics of judicial activism is not grow with the dynamics of society, the challenges which may come and anticipated may not address in the right time. It may persist legal system as retroactive and outdated.

Undermining Fundamental Rights: The judicial restraint may directly hit the failure to protect fundamental rights. If the judiciary do not steps into the shoe of check and balance the arbitrary actions of the State and Legislature, gross violation of human rights affecting the fundamental rights is imminent.

Critical Analysis on the Impact of Socio-Economic Legislation Affecting Fundamental Rights and Directive Principles on Lower-Class Citizens of India

Directive Principles of State Policy under Part IV mandate the government to reach the marginalized sections of society. To promote and protect. Also to give security in terms of health, education and living. While application of this Part IV the conflict and intertwine is happening in between the Fundamental rights under Part III of the Constitution, i.e., Fundamental Rights and mandate of the Constitution over the basis of governance, Part IV. Here is some brief analysis of the complexities faced in the present scenario.

Positive Impact

Social Security and Welfare Schemes:

Instruments such as Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) and the National Food Security Act (NFSA) are the driven force of law to protect the lower class marginalized people. These laws, for example, covers the security of livelihood by reducing poverty and giving opportunity of minimum job to every marginalized individual. Also, the later ensures the eradication of malnutrition brought by hunger. These are the application and realization of the Part IV envisaged in the Constitution.

Access to Education and Healthcare:

Right to Education Act (RTE) and the National Health Mission (NHM) are also significant to the extent of free education up to 14 years of age for every children, and the later ensure the upliftment of health for every individual providing free health services including medicinal facilities with absolute subsidy in advance.

Negative Impact

Infringement on Property Rights:

Certain sections of the society assailed that land acquisition infringes the fundamental rights. It is their contention that it affects the personal rights and affects directly or indirectly the socio economic condition of the society. This is on the basis of inappropriate compensation and inadequate rehabilitation in consideration of the land acquisition for by the State. This is also one segment of dilemma. Therefore, challenges to have address the grievance of the individuals and for the better good of the public at large is a scenario persist at present.

Ineffective Implementation and Bureaucratic Hurdles:

Despite handful of citizen oriented legislations and statutes under the command of Directive Principles of State Policy under Part IV of the Constitution, sometimes bureaucrats and administrators fails to secure what the law in force commands for. This may be because of many reasons which could not be cited often in public domain except before the court of law

or appropriate government. It may also not wrong to implicate the inefficiency of the bureaucrats and political corruptness in implementation of the will of the people and administrators become stumbling blocks.

Critical Analysis on the Impact of Socio-Economic Legislation Affecting Fundamental Rights and Directive Principles on Middle-Class Citizens of India

As has said, Part IV mandates the government to ensure safety protection and security in terms of socio-economic fundamental of the citizens. The middle-class sections of the society form large portion of the nation is also a complex in study in relation to Part III and Part IV of the Constitution. No legislation is separately made for the middle class sections of people, however, it is necessary to delve into this section to understand the role and significance they have in the society.

Positive Impact

Enhanced Access to Social Services:

It is not uncommon to middle class section of the society comparing with the lower class marginal section of the society. This is in terms of health education and economy. They are also equally benefited from the RTE Act, Ayusman Bharat, National Health Mission, etc. This certainly leads to improve their socio-economic conditions ultimately leading to improve their living of standard. To be mentioned, the latest budget draft by the finance ministry may improve the financial status of the middle class segment by reducing the tariff of income taxes. This is an inclusive and social welfare legislation which will benefits more towards the lower class and middle class segments.

Economic Stability and Growth:

Socio-economic legislative policies which promotes industry, technological development, and employment generation affirmably affects the middle class segment. Ensure economic opportunity and a stable financial environment contribute to job enhancement, elevate income, and incline living of standards.

As said, Goods and Services Tax (GST) is being streamlined the tax tariff, benefiting traders and consumers by reducing the tax burden and encouraging the economic growth.

Negative Impact

Taxation and Economic Policies:

Whereas, socio-economic laws sought to promote and secure social welfare, it also lead to uplift taxation and economic policies which disproportionately affect the middle class segment. High taxation, in the form of direct or indirect, could hit middle-class finances, diminishing the disposable of income and savings at large.

GST ease the complexities of tax compliance, the maiden implementation certainly led to elevate costs burden for some goods and services, by impacting the middle-class segment.

Erosion of Individual Rights:

Specific socio-economic policies may bona fide breach the Fundamental Rights. For instance, land acquisition for specific technology and infrastructure based projects, aiming at national and State level development, could lead to displacement and erode the property for middle-class segment. Harmonious act in between public welfare and individual rights often tend the results in legal and social challenges.

Stepping into Judicial interventions, striving to balancing Part IV and Fundamental Rights under Part III may sometimes cause implicates unwanted scenario for the purpose of protecting the interests of the middle class segment.

Critical Analysis on the Impact of Socio-Economic Legislation Affecting Fundamental Rights and Directive Principles on Upper-Class Citizens of India

Whereas, socio-economic instruments in India is designed to secure and protect social justice and equitable distribution of resources, as prescribed in the Directive Principles of State Policy (DPSP). These laws predominantly have the object of uplifting downtrodden sections of the society, their impact on the middle upper class section, though unusually discussed, and is important. This study anticipates the multi dimension effects of socio-economic statutes on upper-class citizens in India.

Positive Impact

Enhanced Social Stability:

The aim of socio-economic legislation is to reduce and secure poverty and for better social stability, which ought to benefit the upper class segment by creating a more stable environment for trade and financial investment. Statutes which promotes education, healthcare, and employment for the lower classes segment enabled more educated and healthy workforce, which can endeavor financial growth, security, safety and prosperity in general.

Such prosperity pulls investments and encourage a conducive environment for trade expansion which in time benefits the upper class segment.

Corporate Social Responsibility (CSR):

Instrument such as Companies Act, 2013, demand businesses and trade to distribute the part of their profits and gain to social welfare activities for development. Not limited to benefits the society at large but also secure corporate reputation of companies and their affiliations adjusting with global sustainability objectives and elevating the reputation among State, stakeholders and consumers.

Customer Social Responsibility (CRS) activities significantly lead to affirmed recognition and consumer trust and beliefs, directly and indirectly promoting upper-class segment entrepreneurs and trade owners.

Negative Impact

Increased Taxation and Regulatory Burden:

Socio-Economic statute usually embark to take part for elevating the taxation and regulatory necessity to finance for the social welfare schemes and projects. Increase of tax on income from whatever sources may lead financial onus on upper-class citizens. For example, the imposition of higher tax on luxury vehicles, estate developers, and high-income group may reduce spending income but limit extravagant spending.

Statutory compliance, especially in establishments with stringent employment may lead to increase the operational costs for businesses by affecting profitability.

Property and Land Acquisition Laws:

Acquisition of land by the State for public purposes, by the statute such as Land Acquisition, Rehabilitation, and Resettlement Act (LARR), could seriously affect the upper-class landholders. Whereas, these instruments' objectives to promote development and social welfare and for public good, may lead to contentious over appropriate compensation and rehabilitation. Upper class segment of the society, usually owned considerable area of land/property, may have their land/property rights aggrieved, leading to legal disputes and financial losses.

Public Interest Litigation (PIL) have become a sophisticated legal tool in the Indian judicial system, enabling courts to address and redresses the issues of public concern and for social justice. Wakening in the 1970's and early 1980's, PIL is still being played a pivotal role in securing individual and social rights.

Enhancing Access to Justice:

Inclusivity: Public Interest Litigation under the virtue of judicial activity, individuals, groups, and civil society organizations enable to approach the appropriate forum, i.e., Courts for or on behalf of those who have no knowledge and idea of PIL and especially who are typically and literally illiterate in this regard. This ensures and secures the marginalized and disadvantaged sections of society can approach court to address their grievance related to fundamental rights.

Broadening Scope: The Constitutional courts have timely evolved the idea of *locus standi* (the right to move before the court, subjection to affected party) in PIL cases, allowing party/parties to file cases on behalf of the public interest and public good in general. This somehow has explained the role of judiciary by addressing fundamental issues and promoting public good.

Protecting Fundamental Rights:

Judicial Activism: With the help of Public Interest Litigation, the legal system has actively involved to protect secure and enforce Fundamental Rights. In *Re. Hussainara Khatoon v. State of Bihar* (1979) and in *Re. Maneka Gandhi v. Union of India* (1978) have expanded the scope of Fundamental Rights by propounding the principle of just fair and reasonable maxim which ultimately meets the necessity of human dignity and social integrity with justice.

Expanding Rights Jurisprudence: Public Interest Litigation facilitates and gains recognition of the new realm of Individual Rights, which includes the Right to Education, and the right to health. These show the harmonious approach with Directive Principles of State Policy and the Fundamental Rights contained in Part III and Part IV of the Constitution.

Promoting Social Welfare:

Addressing Social Issues: Public Interest Litigation is substantially benefiting towards individuals and public at large by addressing limitless social issues/conflicts, such as bonded labor to environmental protection and from child labor to gender injustice. These issues are now brought before the court of law in the form of PIL ensuring justice to all.

Implementing Directive Principles: Public Interest Litigation often tend to entertain the Directive Principles of State Policy to advocate for individual and socio-economic rights. For example, *PUCL v. Union of India*, leading the significant initiatives to improve food security and reduce malnutrition and hunger, compliance with Directive Principles aimed at promoting socio- economic welfare of the public at large.

Challenges and Criticisms:

Judicial Overreach: Critics from several sections of society raised questions on that PIL sometimes may lead to judicial overreach like unfettered and unbridled, where courts encroaches over and above the executive and legislature. This ought to lead confusion over provinces of the principle of separation of powers and democratic obligations.

Frivolous Litigation: It is of a serious question and issue on Public Interest Litigation which may sometimes collude with mala fide intention. This type of unclean hands coming before the law court is forbidden, for this may cause justice derailed.

Conclusion

The relationship between Fundamental Rights and Directive Principles of State Policy in the Indian Constitution showcase an indomitable and unending dilemma in judicial realm. It is true that judiciary plays a pivotal role to harmonize by balancing the fundamental rights and directive principles under the sustainable principle. Here, Public Interest Litigation, PIL since and then play a significant role in shaping and streamlining the intertwining between the fundamental rights and directive principles enumerated in the Constitution.

History has proof, the judiciary oscillates in between prioritizing individual rights and emphasizing social welfare policy. The creation of the "Basic Structure" or essential features doctrine in the Kesavananda Bharati case marked a landmark juncture, which ensures neither Fundamental Rights nor Directive Principles can be compromised. Following cases, such as Minerva Mills, have once again upheld and reaffirmed the importance of still maintaining this set of equilibriums.

Socio-economic mandate, dictated by Directive Principles under Part IV of the Constitution, has had a profound contribution for various social strata, from the lower and middle classes to the upper class segments. Whereas, these statutes aim to secure, safety and promote social justice, they also pose challenges in respect to taxation, property, regulatory compliance and many more. The role of judiciary for construing these statutes firms delicate in bringing harmony between the individual rights and public welfare.

Public Interest Litigation has emerged as a powerful engine, entrusting the courts to address substantial issues, and protect and secure marginalized sections. Through Public Interest Litigations, judiciary encompasses the scope of Fundamental Rights, public good and justice to all.

In conclusion, the interwoven in between Part III and Part IV of the Constitution implicates equity and social justice conscience. To meet the needs of the organic society and dynamics of the Constitution, it is the judiciary that plays a crucial and important role for a better end of the society harmoniously and to bring into equilibrium. Through the vision of the Constitution judiciary has to make balance and check the imbalance for co-existence with justice liberty and equality.

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