

# CHAPTER - I

## Introduction

### 1.1 Introduction

India is a vast land with varied cultures, and diverse socio- economic situations. She has a long history of the British colonial rule that is regarded as one of the major reasons for her economic backwardness and social deprivation. During the period of British colonialism , the people of India were inhumanly oppressed , limitlessly exploited, and deliberately deprived of rights and human dignity . They were looked upon as inferior to the Britishers or Europeans and reduced to almost slaves. Exploitation pauperized a large section of people and oppression led to the social disintegration and prevented them from leading a life of social unity . Laws were made only to guard and preserve the interests of the Britishers or the British colonialism in India and not to protect the rights of Indians . They were designed to deny justice to Indians . British education was introduced in the country with a view to serving the purpose of the British rule and government. No such welfare policy and programme was adopted then to bring about social change in Indian society nor was any welfaristic step taken to promote the social , educational and economic life of the people of India. The government of free India attached considerable importance to the need of social change , social uplift , economic development. guarantee of equality , protection of rights , abolition of social evils , establishment of the rule of law to dispense justice to all and to democratic services which are enunciated in the Preamble to the Constitution, Fundamental Rights and Directive Principles of State Policy. This has been explored, described and discussed in separate chapters of the present study. Secondly , the Directive Principles are non Justiciable , The judiciary can't enforce them. A Directive may be made enforceable only when there is a law on it. The Fundamental rights , on the other hand, are justiciable.

They impose legal obligation on the state as well as on individuals. The judiciary enforces them, If a law violates the Fundamental Rights.

The dissertation is a socio- political and socio economic study of the Directive Principles of State Policy (DPSP) as articulated in Part IV of the Constitution of India and explores and vindicates its importance, value and significance in paving the way for social justice – the justice to protect and promote the socio-economic life of the poor and the weaker sections of people in the Indian society. It has tried to explore the evils of British colonialism which is to be dubbed as the British misrule in India and to trace systematically pro -people policies adopted and programmes launched to implement Directive Principles by the Central and State Governments in order to bring about social change for social development. It justifies the progress and development of India as a welfare nation or state standing on the systematic implementation of the principles as enunciated in the Directive Principles. Here my attempt has been to explore, discuss, explicate, vindicate and validate the fact that almost all welfare and development - oriented programmes which the Government of India and provincial governments have adopted and launched since 1952 when the first general election was held and the government was formed which have been inspired by and derived from the Directive Principles of State Policy.

Constitutional experts and scholars describe India as a welfare state, and in Preamble to the Constitution, it has been declared that India is wedded to democracy and socialism and the aims of the founding fathers of the Constitution of India is to firmly establish social justice which shall be secured to all India citizens irrespective of class, creed, colour and community.

Historical background of Fundamental Rights and Directive Principles Shailja Chander's "**Justice V.R. Krishna Iyer On Fundamental Rights and Directive Principles**" is intensely felt in dealing with the historical development of this cardinal components of our Constitution. Iyer wrote that the demand for Fundamental Rights during the freedom struggle can be traced with the formation of Indian National Congress itself. First of all demand for the Fundamental Rights appeared in the Constitution of India Bill, 1886.

Between 1917 and 1919 the Indian National Congress passed a series of resolutions 'demanding civil rights and equality of status with the English men. The next demand for Fundamental Rights was Annie Besant's Commonwealth of India Bill , 1925. The assertion was reiterated by Nehru Committee in 1928 which stated that the guarantee of Fundamental Rights should be in such a manner that it would not permit their withdrawal under any circumstances.

The Indian leaders pressed for the inclusion of Bill of Rights at the Round table conference in the proposed Constitution. The sub-committees of the minorities held detailed discussion on the subject at the first meeting of the sub- committee held on December 23, 1930. Raja Narendra Nath pointed out the need to make the question of declaration of Rights unassailable by the majority of the Constitution of India. A.T .Paul also emphasized the need for inclusion of Fundamental Rights and to provide for some machinery to ensure that they were not violated.

B. Shiva Rao, a representative of labour organization of India in the Round Table Conference , placed before the Minorities sub-committee meeting on December 23 , 1930 a Comprehensive enunciation of a draft declaration of Fundamental Rights. During the discussion at the sub-committee meeting, Dr. B.R. Ambedkar also pointed out the need for the inclusion of sanctions in the Constitution for the enforcement of Fundamental Rights, including a right of redress in case of their violation.

After the concluding session of the Indian Round Table Conferences, a report was presented by the Secretary of the State for India to Parliament. The report observed that the Government recognized the importance attached by the Indian leaders to the idea of making a chapter on Fundamental Rights , a feature of the Indian Constitution. It also pointed out that some of their propositions discussed at the conferences could find their place in the Constitution. The idea of enumerating such of these fundamental rights which could not be embodied in the Constitution on Act itself in the instrument of instructions also found support in a memorandum submitted by Khan Bahadur Hafiz, Hidayat Hussein and Dr. Safat Ahmed Khan on December 27, 1932. As a result of the discussion

and memoranda for a declaration of Fundamental Rights , certain concessions were made . 12(1) (c ) , 52 (1) (b) 275 , 298 were embodied in the Government of India Act, 1935 providing for New Fundamental Rights.

Then came Sapru Report which was published in 1945. The Sapru Committee recommended that the declaration of Fundamental Rights was absolutely necessary, for not only giving assurances and guarantee to the minorities, but also for prescribing a standard of conduct for the legislatures, Government and the Courts.

The Sapru Committee envisaged two kind of Rights, namely justiciable and non justiciable rights. However, the committee did not suggest a list of Fundamental Rights to be included in the Future Constitution making body. Thus it is clear that even prior to the independence, the issue was left to be decided by the Constitution making body.

Thus it is clear that even prior to independence there was a concerted effort and awareness for the recognition of the importance of Fundamental Rights.

Iyer was equally emphatic on the nature of Directive Principles of State Policy. He explained that it is the ancient Indian practice of laying down policies on **Dharmasashtra of the State** . In ancient India , the state used to undertake many functions which the socialist , ancient and modern , are advocating , yet these went hand in hand with the enlargement of rights and freedom.

There is the illusion that the correct economic thought is only of recent growth and exclusively of modern origin. But the concept of declaration of policy in regard to social and economic obligations of the state cannot be said to be foreign to the brain of India.

Kautilya recorded specific injunctions in his **Arthsastra** that the King shall provide to the orphan, the dying, the infirm, the afflicted and the helpless with maintenance and shall also provide subsistence to helpless expectant mothers and also the children they gave birth to. Dharma is the supreme law of the laws, king of Kings. It is raj dharma in which all living creatures take refuge.

The Constitution of India is virtually the Dharma of modern democratic India , for it aims at protection , security, equality and justice to all. The Directive principles of State Policy enunciated in Part IV of the Indian Constitution are nothing but principles of Rajdharma . Fundamental Principles of Governance means Dharma or the path of duty of the government.

B.N. Rau recommended the classification of rights into two parts, one dealing with fundamental principles of state policy and other fundamental rights as such. At first, there was stiff opposition for the inclusion of non -justiciable rights in the sub-committee on Fundamental Rights.

Speaking about the nature of the two parts , B .N. Rau observed “there are certain rights which requires positive action by the state and which can be guaranteed only as far as such action practicable and needed while others merely requires that the state shall abstain from prejudicial action”.

He gave two examples as typical ones for each type. For the former , the example is right to work, which cannot be the guarantee except during the policy of the state in that direction for the later life and life of the person, wherein the state can restrain from interfering .

Hence the distinction was made between the fundamental rights and directive principles obviating the administrative and other practical difficulties that might arise in the directive which need to be enforced at the behest of the citizens.

Some were pessimistic and others were optimistic towards the Directives . Some called them ‘ a veritable dustbin of sentiments attaching no values. Jennings referred to part IV of the Constitution as the expression of Fabian Socialism without socialism.

But to Dr. Ambedkar , the directives were like the Instruments of Instruction. They were also hailed as the essence of the Constitution and also as cardinal , important and creative provisions.

Prof. P.K. Tripathi , also points out that all the twentieth century constitutions have given a place in their systems to the provisions of social welfare and these

provisions have gathered larger sweep , greater emphasis and more definitive legal obligations as the lapse of years brought in more governmental experience to bear.

Directive principles aim at making the Indian masses free in the positive sense, free from passivity engendered by centuries of coercion by society and by nature, free from abject physical conditions that had prevented them from fulfilling their best selves. The first and paramount principle enjoins that the state shall secure a social order in which social, economic and political justice shall prevail.

This means that equality shall be ensured to all without discrimination .It is believed that India can be a veritable welfare state , and social justice can be ensured to the people of the country only if the Principles as stated in the directive principles are adequately and systematically implemented .We have our constitutionally granted Fundamental Rights as enunciated in Part III of our Constitution but we have experienced that the Fundamental Rights are not at all enough for the state to ensure to people social , civil, political, and human rights. New laws need to be framed on the basis and spirit of Directive Principles of State Policy to ensure socio -economic equality to all , to guarantee liberty to all , to protect the weaker class and the working class against exploitation against social oppression, to prevent child labour, to promote and preserve the interests of dalits and minorities, to empower women , to expedite and strengthen social and national progress and finally to accord constitutional status to directive principles as necessary for social justice and the state should legislate against violence against women, deep rooted evil social practices and discriminations.

The study deals with the relation between social justice and the preservation of forests and protection of the environment and cites some opinions and directives of the Supreme Court of India as the judicial step towards the protection and preservation of wild life and forests. It also focuses on free legal aid mainly provided to deserving individuals to protect their rights and to uphold the rule of law.

## 1.2 Background and Rationale of the study

The founding fathers of the constitution of India aimed at making India an egalitarian society – a society to provide and ensure social, political and economic justice to all its citizens. The preamble to the Indian constitution as well as the Fundamental Rights and the Directive Principles of State Policy enumerated in the constitution constitute an integral part of the same constitutional edifice. The constitution aims at building an egalitarian society and specially emphasizes socio economic justice as one of its cardinal democratic principles. The ideals and values proclaimed in it clearly reveal that India is committed to the ideal of welfare state and must establish socio economic justice. The Preamble envisions not only democratic form of government for India, but also democratic society which is infused with the ideals and spirit of justice, liberty and equality.

The constitution of India seeks to provide a unified shape to multiple divisions of the Indian society based on class, religion and language, racialism and ethnicity by developing a polity on the basis of certain principles. It propounds prescribes, and preserves the principles and spirit for the government to formulate and adopt valid policies to vindicate social and economic justice to all Indian citizens. It dictates the governmental actions against exploitation and deprivation and is committed to establish discrimination and oppression free society in India.

The Preamble with which the Constitution of India begins is the quintessence of the Constitution. The fundamental values and the principles, on which the constitution is based, constitutes the aspirations and ideals of the constitution framers to build up an egalitarian society in India. It contains the aims and objectives which the Constitution seeks to establish and promote. The ideals and values proclaimed in it clearly reveal that India is committed to the ideal of welfare state and must establish socio economic justice. The preamble depicts not only the democratic form of government for India, but also a democratic society which is infused with the ideals and spirit of justice, liberty and equality.

The aim of the political system of India is to justify a right ordering of society so as to secure to all citizens, social economic and political justice. Social justice is the sine qua non of a welfare state in as much as it prohibits discrimination on artificial ground. It also prohibits forces that create artificial barriers. Economic Justice or distributive justice is a corollary to social justice. The aims of economic or distributive justice is to better the lot of the deprived and the backward sections of the community, to protect the working sections against exploitation and to reshape the country's economy in such a way that the common man can avail himself of its equitable benefits or an equitable distribution of the country's economic growth is secured to him. This socio economic justice has been translated into several articles in Parts III and IV of the Constitution.

The constitutional provisions as stated above affirm that the State would not discriminate, in the matter of public employment, between one citizen and another merely on the ground of religion, race, caste sex or place of birth. The state would seek to remove social disabilities like untouchability, bonded labourers, illiteracy etc., to improve the position of severely deprived groups, e. g., women, Scheduled Castes and Scheduled Tribes, by providing compensatory discrimination, to eliminate poverty, to dispel ignorance, to prevent disease and to actively promote egalitarianism.

### **1.3 Role of India as a Welfare State in Dispensation of Social Justice.**

The concept of welfare state presents a model of a new state which enhances the vibrant aspects of democracy and socialism. India is committed to democracy. The 42<sup>nd</sup> Amendment to the constitution, 1976 has led to the insertion of the word 'socialist' in the Preamble, and by virtue of this amendment, it is declared that the goal of Indian polity is socialism and the right to private property has been removed from the list "Fundamental Rights" through the 44<sup>th</sup> Constitutional Amendment Act, 1978. The right to property is now reduced to a legal right. The aim of India is not only to build up a democratic political system but also a democratic social system that proscribes discrimination and deprivation in any form and in any way in order to secure social and economic

justice to all Indian citizens. In the post modern period , the concept of welfare state has become a universal concept and even totalitarian state is a welfare state in an indirect way, laying more emphasis on material welfare than on moral and spiritual welfare. India as a welfare state is wedded to the principle of promoting the general happiness and welfare of the people. In theory it is more an agency of social service than an instrument of power—India's welfareism is enunciated in the Directive Principles of State Policy. India is envisioned as a state aiming at securing optimum progress and confront for the individuals and providing for its citizens a wide range of social service. The instances of recent Suredranath Khoshla Vs Dalip Singh<sup>11</sup> on 29<sup>th</sup> Nov. 1956 political development reveals the government's initiative to attribute constitutional status to the important articles of Directive Principles through constitutional amendments or through enactments . The attitude of the government towards Directive Principles in recent years is expressive of its effort to provide economic security to people , to provide free legal aid for legal justice ; its initiative to protect the health of the workers , to adopt preventive as well as curative measures , its drive against illiteracy and its announced aim to protect against want , sickness, and old age , which constitute social security . Social security for a welfare state like India is justified not only on humanitarian ground but also on economic ground as well . In line with the "directive principles" India endeavored to root out social evils and harmful social practices which are out to sap the roots of democracy. It has made several legislations against social evils. It has already announced a number of programmes to uphold the rights of all without any discrimination of caste , colour and so on. It makes no compromise on human personality, dignity and liberty. Thus India has marched much ahead towards building up the welfare society.

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<sup>11</sup> Surebdranath Khosla vs Dalip Sing on 29 November, 1956, date of judgment 29.11.1956. Act Election improper materially affected presumption – double member constituency

## **1.4 Importance and Implication of Fundamental Rights in securing social justice.<sup>12</sup>**

Part III (Arts. 12 – 35) contains Fundamental Rights of Indian citizens. The Fundamental Rights are described as fundamental because they are basic to the development to human personality. They are guaranteed by the Constitution and constitute, in the words of Jawaharlal Nehru “conscience of the Constitution”<sup>(1)</sup>. The Nehru report of 1928 on Fundamental Rights observed that “Parliament shall make suitable laws for the maintenance of health and fitness for work of all citizens, securing a living wage for every worker, the protection of motherhood, welfare of children and the economic sequences of old age, infirmity and unemployment”<sup>13</sup>.

The Karachi session of Indian National Congress, 1931<sup>3</sup> adopted an impressive document on Fundamental Rights and Fundamental Duties. This document was the forerunner of part III of the Indian Constitution which deals with fundamental rights. The Karachi session also dealt with the provisions on labour, taxation, expenditure and economic and social programme. These provisions constitute the basis for part IV of the Indian Constitution which contains the Directive Principles of State policy.

The fundamental Rights offer the best fruits of democracy and opportunities for self development. The rights as granted to the citizens are right to equality and freedom, freedom against exploitation, religious freedom, cultural and educational rights and right to constitutional remedies. Some of the Fundamental Rights are positive while some others are negative in tone. The

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<sup>12</sup> Page – 204, Jawharlal Nehru, A Biography by Sankar Ghosh.

<sup>13</sup> The Motilal Nehru Committee Draft Constitution included under clause 4 (5) dealing with fundamental rights had the following “All citizens of the Commonwealth of India have the right to elementary education without any distinction of caste or creed in the matter of admission into any educational institutions, maintained or aided by the state and such right shall be enforceable as soon as due arrangement shall have been made by the competent authority [Nehru Report 1928 excerpt]”<sup>13</sup> Page – 204, Jawharlal Nehru, A Biography by Sankar Ghosh; the Motilal Nehru Committee Draft Constitution included under clause 4 (5) dealing with fundamental rights had the following “All citizens of the Commonwealth of India have the right to elementary education without any obstacle and hindrance.

positive rights are those which confer some benefits upon the individuals, e.g., the right to religion, and the cultural and educational rights. The negative rights, on the other hand, are those which impose limitations and restrictions on the authority of the state, for example, "the state can't deny to any person equality before law and equal protection of law (art. 14). The enjoyment of the Fundamental Rights are essential to the development of individual. The Judiciary is the guardian and protector of the Fundamental Rights. The rights are not absolute. Reasonable restrictions may be imposed upon any fundamental rights in the interest of society as a whole. Whether a restriction imposed upon any Fundamental Right is reasonable will be determined by the judiciary. Justice Gajendra Gadkar of the Supreme court in *Sajjan Singh vs. State of Rajasthan* 1965<sup>14</sup>, remarked that 'the Fundamental Rights constitute as great charter of rights of the Indian people', the very foundation and cornerstone of the democratic way of life was ushered in this country by the constitution.

The Fundamental Rights are constitutional rights intended to ensure equality and liberty to the people of India. These are not merely of supreme political value to firmly establish democracy in India but also immense value with a view to establishing and upholding social justice. They are meant to ensure education to all, to stop exploitation in the country, education to all, to stop exploitation in the society, to secure equality for all citizens, to allow everyone to enjoy freedom and to uproot discrimination, deprivation and oppression. The framers of the Constitution of India had in their mind, the aim to establish social justice in the society. The Fundamental rights restrain the state from adopting any decision or step to deny social justice to people.

### **1.5 Social Justice – an Overview.**

Justice has a wide ranging meaning. In the context of politics and state, the words 'justice' means right and fair treatment. It encompasses within its range and scope, equality, freedom and fairness of treatment and absence of partiality and discrimination. This sort of justice has three broad dimensions – social, economic

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<sup>14</sup> *Sajjan Singh vs Respondent State of Rajasthan* ; date of judgment 30.10.1964 Bench Gajendrakar CJ

and political. As democracy has penetrated into social and economic sphere, the meaning of justice has been so much expanded as to cover all walks of human life; the expansion of the meaning of justice is the corollary of the achievement of the ends of social justice. Social justice and social well being are interrelated. Social justice is dream if social well being fails to take place. If the rights of the individual and interests of the community are coordinated, social well being of society is sure to take place. Social justice is the concept intimately associated with democracy and governs the welfare state. It seeks to ensure the fulfillment of legitimate aspirations and expectation of the individual and expectations of the individual under the existing laws to assure him benefits there under and protection in case of any violations or encroachment on his rights, consistent with unity of nations and needs of the nation and needs of the society. "The concept of social justice is a very wide form that covers within its fold everything pertaining to the norm of 'general interests' ranging from protection of the interests of minorities to the eradication of poverty and illiteracy. It also relates to the eradication of gigantic social evils that taint and jeopardize life and humanity and human civilization". India is still a developing country announcing, undertaking and launching a number of programmes based consciously on the Directive Principles or unconsciously on the Directive Principles which are deliberately designed to ameliorate the lot of the downtrodden and weaker sections of the community. The force or impetus that inspires India to adopt various welfare programmes is the concept of social justice. Social justice has become an all encompassing idea to promote life in all fields in the society. It enjoins upon the state to make concerted effort to widen itself so as to cover the economic domain of people's life for the obvious reason that it demands non exploitation of the working class. The idea of social justice envisages to promote the welfare of people by securing and developing a just social order. Apart from ensuring equality and liberty to the people, it enjoins to bring about a social order in which justice – social, economic and political – shall inform the institutions of national life (chief justice K. Subba Rao of the Supreme Court of India in *Golak Nath vs. the State of Punjab*, AIR, 1967, SC 1643).

## **1.6 Social Welfare Steps Adopted and New Policies Formulated in India to Vindicate Social Justice.**

The India social system reveals the practice of inequality on the basis of caste. The leaders of independent India were pledged to establish a modern welfare egalitarian state. This is reflected in the Preamble of the constitution of India which makes it clear that the framers of the Constitution were committed to achieve the goals of justice, liberty and equality. These conceptual objectives can be considered as the sheet anchor of our political system. In the context of commitment to equality for all citizens, the principle of compensatory discrimination in favour of certain classes was acceded to. Consequently, reservation facility has been constitutionally offered to the SCs, STs, and Anglo Indian Community. Article 15(4) while promoting the idea of equality as a fundamental rights for citizens, contains special provision for the advancement of socially and educationally backward classes of the citizens. The 73<sup>rd</sup> amendment and 74<sup>th</sup> Amendment, 1987 have provided for additional reservation reservations in the Panchayati Raj and the urban institutions. Initially, reservations of seats were made for a period of the years from the commencement of the constitutions. Subsequently, the period was extended several times. The land extension was made in 1999 by the 79<sup>th</sup> Amendment, but 79<sup>th</sup> Amendment extended reservation of seats upto January, 2010.

The Janata Government appointed the second Backward Classes commission in 1978 headed by BP Mandal, former Chief Minister of Bihar. The Commission was requested to recommend mainly on two matters – (1) identification of socially and educationally backward classes and (ii) uplift of these classes. The Commission submitted its report to the President in 1980 and it was laid before parliament in 1982. In order to identify other backward classes, the Mandal Commission followed eleven indicators. Of these four were social, three on educational, four on economic standards. The Commission gave a weightage of three points to each social indicator, two points to each educational and four on economic indicators. The National Front Government took steps to follow the recommendations of the Commission. In 1990, Prime Minister V.P. Singh issued

orders for seat reservation in govt. jobs to the extent of 27% which meant a total reservation of 49.5%.<sup>15</sup>

In 1991, the VP Singh ministry, was replaced by the Congress ministry headed by Narshima Rao. His government decided that for the welfare of economically backward people of high caste and additional 10% reservations would be made. In November, 1992, the Supreme Court in the case of Indira Sawney Vs. Union of India<sup>1</sup> held the reservations beyond limit of 50% was unconstitutional. The decision was reaffirmed subsequently in 1994 in the case of Surendra Nath and Others vs. Union of India<sup>16</sup>. However, in spite of the states like Tamilnadu and Karnataka passed acts providing for 69% and 78% of reservation respectively.

Reservations in educational institutions are generally referred to as Mandal II. In 2005, the Supreme Court abolished all caste based reservations in unaided private educational institutions. The Lok Sabha has also passed the 104<sup>th</sup> Constitution Amendment act adding a new clause to Art. 15 providing for reservations of SCs and STs and Other backward Classes (OBC) in private unaided educational institutions and other minority institutions. Thus we find that originally reservation issue was guided by the noble ideal of compensatory discrimination for ensuring justice to underprivileged sections but now it has resulted in politics of reservation<sup>17</sup>.

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<sup>14</sup> Supreme court of India ; Indira Swhney vs Union of Indian And Others on 4 November, 1996 Bench: S.V. Manohar, K Venkataswami PETITIONER INDIRA SAWHNEY VS. RESPONDENT: UNION OF INDIA AND OTHERS on 4 November 1996. Bench SV Manohar, K. Venkatswamy

<sup>16</sup> Petitioner Surendra Nath khoshla vs. Dalip Sing, date of judgment 29.11.1956. Act: Election improper rejection of nomination paper – whether result of election materially affected presumption – double member constituency.

<sup>17</sup> The cases in this batch raise common issues relating to the identification of 'creamy layer' among the backward classes in the state of kerala and the implementation of law declared and directions issued in Indira sawhney vs. Union of India { 1992 (suppl) 3, SCC 217 }. The state of kerala took time for implementation of the directions in Indira Swahney for appointment of a commission for the purpose of identifying the creamy layer but it failed to implement the recommendations. The court by its order dated 10.7.95 held (IAs 35, 36 filed by the state for extension of time etc..) that the state of kerala, represented by its chief secretary was guilty of contempt but gave a further opportunity to the state to purge the contempt and adjourned the matter to 11.9.95.

### **1.7 Social change and Social justice.**

Since independence in 1947, new social movements have been taking place in the country to preclude deprivations and exploitation. Various social movements have been taking place in the country to preclude deprivation and exploitation to firmly establish equality, security and justice. A social movement is characterized by an organized collective attempt to bring about either partial or total change in society. It may also emerge to resist change. All social movements may not emanate from a sense of deprivation. They may also emanate from social deprivation and structural strain. When people become dissatisfied with prevailing system of value, the society reveals strain. This prompts people to protest prevailing social norms. What has been studied, investigated, and explored is that a feeling of deprivation, may also emerge to resist a change. "The new social movements are not motivated by the goal of acquisition of power. They are mainly related to issues concerning civil society".

### **1.8 Environmental Movements and Social Justice**

Environmental movements in India developed centering around the issue of environmental degradation which has adversely impacted in the socio economic progress of the country . The major elements of ecological infrastructure of society like water, soil, flora and fauna etc., have their impact in different aspects of their society. The impact is virtually menacing to the environment and life of our country. It creates problems which relate to air, water, and noise pollution , degradation of soil , threat to biological diversity, in increasing deforestation, solid waste disposal and sanitation. Those are hazardous to life. The constitution of India provides for the protection and conservation of natural resources. The 42<sup>nd</sup> Constitution Amendment Act, 1976 provides for protection and improvement of environment and safeguarding of forests and wild lives. Deforestation not only pollutes the environment but leads to expropriation of traditional livelihood. This is a clear case of denial social justice which majority of the authors have failed to take note of. Whenever, the conservationists, environmentalists, journalists start discussion on conservation of Forests and protection of environment (tons of newsprints have already been

devoted in the domain of discussion of climate change and conservation of environment) , they discuss it independent to Directive Principles of State Policy.

Women constitute a pillar for national progress and reconstruction . we can't dilate the role of women in social progress and social justice . But in India they are victims of gender bias , male domination and sex discrimination. In post independent India , they organized themselves and formed association to demand full freedom and equality in society with men and finally to end sex discriminations. In the history of women's movement the period between 1973 and 1975 can be considered as an important milestone. As a result of persistent and untiring efforts , in 1990 a National Commission for Women Act was passed . Prior to this, the Rajiv Gandhi Government made the national perspective plan for women's development. The 73<sup>rd</sup> and 74<sup>th</sup> Constitution Amendment acts 1992 are landmarks on road to women empowerment as seats have been reserved for them in the panchayats and Municipal bodies . In 2004 , some women organizations sought support to fulfill their needs through the common millennium programme of the UPA Government. Social progress can't be achieved without women empowerment. Social justice in our society will remain a myth if women continue social familial violence and discrimination.

### **1.9 Human Rights Movements and Social Justice**

The movements for human rights is regarded as one of the fundamental goals for social, national and human development. The message of the movement is that every individual should be allowed to enjoy rights as human beings. To curb this right amounts to denying social justice. Inspired by the spirit of the Directive Principles , the government of India , has adopted steps, through legislations against bonded labourers , child labourers , police atrocities like illegal detention , torture in police lock-ups and custodial death, crimes against weaker sections of society, cruelties and violence against women, including dowry and deaths , women trafficking , anti-people laws and violation of Forest Acts and oppression and exploitation of the tribal communities who fall victim to a process of urbanization. Parliament passed the protection of Human Rights Act, 1993. In the following parts of the dissertation, I have given a detailed description and

analysis of the steps so far taken by the government to establish and ensure social justice and throw light upon how they are related to the Directive Principles of State Policy.

### **1.10 Directive Principles of State Policy**

The Directive Principles of State Policy included in Part IV of the Constitution represents hopes, ideals, and goals rather than actual reality of government. They, by no means, constitute a decorative part of the constitution but a manifesto of aims and ideals and as such it is to be said to contain the philosophy of the Constitution. They “constitute a very comprehensive political, social, and economic programmes for a modern democratic state.”

They may be regarded as a sister part of the Fundamental Rights in the sense that they aim at making the Fundamental Rights a reality by extending democracy in the social and economic spheres or domains. They embody the aims and objectives of the State under the republican Constitution e.g. the aim to make India welfare state. The term directives indicate that there are broad directives given to the state in accordance with the legislative and executive power of the state are to be exercised. It is the duty of the legislatures and administrators to follow the principles. They lay down a comprehensive blueprint of social goals, a charter of economic and social democracy which is pledged in the Preamble.

### **1.11 Contrast between Directive Principles and Fundamental Rights.**

The Directive Principles are often contrasted with the Fundamental Rights. The Fundamental Rights constitute a set of negative injunctions. The State is restrained from doing something. The Directives, on the other hand, are a set of positive directions. The state is urged to do something to transform India into a social and economic democracy. Secondly the Directive Principles are non justiciable, it is said. Courts can't enforce them. Directives may be made enforceable only when there is law on it. The Fundamental Rights on the other hand are justiciable. They impose legal obligation on the state as well on the individuals. Courts enforce them. If a law violates a Fundamental Rights and, the

law in question is declared void. Whenever conflicts arise between Fundamental Rights and Directive Principles, Fundamental Rights will prevail over directive principles, in terms of Articles. 32 and 226; fundamental rights are enforceable by the courts. In the case of social order and social justice the Directive Principles are said to have primacy over the Fundamental Rights. In the judgment on State of Madras vs. Chamkam Dorairajan ( 1951 ) , a judge constituting the majority in that case said "In building up a just social order , it is sometimes imperative that the Fundamental Rights should be subordinated to Directive Principles". This view defends the logic that the Fundamental Rights and the Directive Principles are complementary.

The Directive Principles are very much oriented towards social welfare and social justice. The aims and aspirations of the framers of the constitution is to ensure social justice are reflected in the Directive Principles . The principles categorized as socialistic principles aim at securing welfare of the people (Art. 38), securing proper distribution of natural resources of the community as to best sub serve the common good , equal pay for equal work, protection of childhood and youth against oppression etc (Art. 39) , securing just and human conditions and maternity relief (Art. 42. etc).

### **1.12 Categorization of Directive Principles**

The Principles categorized as Gandhian Directives are to organize village panchayats (art. 40), to secure living wage , decent standard of life .... And to provide cottage industries (Art. 43) , to provide free and compulsory education upto 14 years of age (Art. 45) , to promote economic and educational interest of the weaker section of the people., particularly , the Scheduled Castes and Scheduled Tribes , and to enforce prohibition of intoxicating drinks, and cow slaughter and to organize agriculture and animal husbandry on scientific lines (Arts. 46-48).

The Government of India and the state legislative machinery are trying to implement many of the provisions of Directive Principles, as for example Minimum wages act was passed to implement provisions of Art. 43 of Directive

Principles. The Employees Provident Fund Act, 1962 was passed in conformity with Art. 41. Free primary education legislations have been passed in some states in conformity with Art.45 of the Constitution. The 42<sup>nd</sup> Constitution Amendment Act, 1976 increases the number of directions and gives importance to the directives. By this Act, new directions are being added to Part IV to provide for free legal aid to the economically backward classes. Thus the importance of the Directive Principles is day by day increasing in order to establish a socialist state.

### **1.13 Directive Principles of State Policy as a powerful instrument for securing social justice.**

The framers of the Constitution of India appended the Directive Principles to it with a view to providing social protection to the people of India. The term 'social protection' contains a wide ranging meaning and implication. All that is needed to make the life of an individual happy, healthy, and problem free is included in the term of social protection. The philosophy of the Directive Principles is based on social protection.

The Directive Principles are meant to give directions to the state to provide health security, especially to children, women and to fix and ensure rational rates of wages, to prohibit labour exploitation. The Government of India has already launched a few programmes like Swarna Jayanti Sahari Rojgar Yojna (SJSRY) to alleviate poverty in urban areas. The Directive Principles have led the state to introduce and continue social security programmes for those who belong to below poverty lines (BPL). The aim of such programmes is to ensure social justice to all citizens of India, especially to those who have been subjected to various social injustices.

Human rights are central to social justice. Social Justice can't be realized if human rights are denied or violated. All types of right which a person enjoys as a human being of human rights. A welfare state accords supreme importance to the basic rights to which a person is entitled to lead a normal decent and democratic life. India is pledged to welfarism, democracy and socialism to which

a question of human rights is inextricably linked. The state has adopted some welfare measures to ban inhuman practices, shameful social custom and many other social evils prevailing in Indian society from time immemorial.

As measures to protect human rights and human dignity the state of India has legislated against atrocities against dalits, forced labourers and slavery, inhuman practices. The inhuman practices of manual scavenging which is closely related to untouchability is an instance of gross violation of human rights and human dignity. The Indian Parliament has passed four enactments in order to outlaw these practices. There are Protection of Civil Rights Act, 1955, The SC/ST (Prevention of Atrocities) Act, 1989, The Employment of manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993. The State is striving through legislation and enactment, to ensure inherent dignity and of equal and inalienable rights of all members of the human family. The Government has enacted laws to support welfare provisions. It strives to ensure just and human conditions of work, fair wages, a decent standard of living and safe and healthy working conditions to all kinds of workers and specially seeks to provide adequate means of livelihood to all. The Supreme Court has directed in its verdict on several cases the state to take appropriate actions to eliminate<sup>4</sup> discrimination against women and violence against them, and to ensure their security and honour in public and social life. The government has taken steps to stop police atrocities and custodial deaths. All these measures adopted by the state to protect human rights are in accordance with the Directive Principles of State Policy.

#### **1.14 Coalition Politics and Social Justice.**

Multi-party system is introduced in India since independence. Existence of political parties is regarded as an essential requirement of democracy. For a successful working of parliamentary democracy political parties are necessary for democracy. The party system is a part of large political system in India. Coalition politics is a political reality, and coalition may happen to be a necessity for the formation of a government. The first coalition government at the centre functioned from 1977 to 1979. In 1977, the Janata Party government emerged

as a coalition of different anti Congress groups . The coalition Government in India since 1996 have played an admirable role in introducing and launching a plethora of welfare programmes adopted on the basis of Directive Principles of State Policy to impart social and economic justice to the people. The BJP-led NDA government and the Congress-led UPA government made a number of constitutional amendments and enactments of some Directive Principles to provide for and ensure social justice to women , children and people of backward classes . In the following chapters of the study, the welfare programmes which have been adopted and launched by the coalition government, have been discussed and analysed to show how they are related to Directive Principles of State Policy.

### **1.15 Political Coalition or Coalition Politics?**

To deal with coalition politics and social development in the context of the study is to deal with programmes introduced and launched by the coalition governments in India since 1996. To do it, it is necessary to discuss the meaning of coalition politics . The term “coalition politics” is used in this study to mean or referred to coalition government in India. Coalition is a temporary alliance of political parties for forming a government. A coalition is formed either to defeat the governing party in order to form a new government or to cling to power when the party in power apprehends defeat in the forth coming election. Coalition politics is an essential feature of multi-party government. F.A. Ogg defines coalition in political sense as a cooperative arrangement under which the distinct political parties or at all events members of such parties unite to form government or a ministry.

### **1.16 Types of Coalition Government**

Coalition Government can be classified into two types—pre -poll coalition government and post -poll coalition government. In a pre -poll coalition, more than two parties unite in elections on the basis of agreed policy and common programmes. If such a coalition partner secures a majority of seats, it forms a government consisting of representatives from parties forming the coalition

and joining the government. A post poll coalition is formed when no political party is in a position to secure absolute majority to form government. Again coalition politics can be tactical and formal. In the case of tactical tradition , there may be one party in power but certain other parties support the ruling party from outside. In 1979, when the caretaker government of Charan Singh was functioning , Congress lent support from outside. In the first UPA Coalition government (2004 – 2009) the Left parties supported it from outside on the basis of certain issues like common minimum programme, the keeping of so-called communal forces from power in Delhi, etc., Coalition politics implies a temporary conjunction of particular interests to enjoy some material reward of psychological advantage by seizing political power.

The dawn of coalition politics may be regarded as a boon for Indian social and economic conditions. Before the three phases of coalition government i.e., One NDA coalition government at the centre and two UPA coalition government, no noticeable socio economic development programme was adopted in India, though the Congress government headed by Mrs. Indira Gandhi paid much attention to social development, economic progress and social justice. Her successful effort of bank nationalization in 1967 is a glorious event in the history of socio economic development in India. The basic aim of bank nationalization was to protect rural poor farmers against exploitation by local money lenders and to boost national economy. It is the duty of the welfare state to provide protection to the economically weaker and educationally backward classes against economic exploitation and deprivation and social injustices and thus to ensure equality to all. Her twenty- point programme was directed towards the evolution of a new socio -economic system in order to prepare a solid ground for a radical change in Indian society. The Coalition Government adopted and launched quite a good many number of programmes to firmly establish equality in society – equality not only in politics but also in social and economic fields.

The coalition government since 1996 has stressed socio-economic changes in order to smoothen the path to social justice. It has its announced commitment to the policy of growth and development which is a positive force that paves the

way for social changes and social development , which enabled the state to achieve the goal of social justice. The National Democratic Alliance (NDA) introduced and implemented the programme of universalization of basic education and the UPA stands for solving the economic problems like unemployment and poverty. Earlier, the Janata Dal-led National Front and the Left Front agreed to a Common Minimum Programme, "Social Justice", implementation of Mandal Commission's report on reservations, share of power for the deprived and protection to the minorities formed the four planks of their poll strategy. Janata Dal leadership projected itself as messiah of the poor , the backward, and the minorities. V.P. Singh built a social hierarchy on the basis of Mandal Commission recommendation and its implementation and the Left parties endorsed VP Singh's political programme. The BJP led-government stressed the protection of national economic interest to provide its benefits to the people. It believed that people should receive the economic justice along with political justice and also assured protection to the minorities. The NDA government provided subsidy to Haj Pilgrimage as a part of the government's initiative to send a message of positive secularism to the minorities.

### **1.17 Rise of BJP and Weakening of Coalition Politics in India**

Multi-party is recognized as the party system in the democratic political system in India. The political democracy in independent India began its journey with the single party dominance. This dominance was the dominance of the Congress party, and it ended in 1977 when Congress had a frustrating debacle in the general election in that year. The Janata Party-led coalition formed the government at the centre. The Congress again regained power and its influence could well be felt in 1989. The end of this single party dominance strengthened the political spirit of coalition politics in India. Coalition politics at the regional level was seen to be of limited influence on national economy , politics and development. But coalition politics in India that began with the emergence of National Democratic Alliance gave a new dimension to Indian Politics. The dominance of coalition politics in India that almost ended with the Bharatiya Janata Party bagging the required number of seats to form the government at

the centre on its own strength in the 16<sup>th</sup> general election 2014 ushered in a new era of Indian Politics. It is to be noted that nearly 26 political outfits, mostly non-descript, were inducted into National Democratic Alliance (NDA) which is in contrast to earlier political formations or coalition where majority of the constituents either of NDA or UPA were of regional party or parties. It may be noted that 26 political outfits, majority of which are non-descript were inducted into National Democratic Alliance (NDA) which is in sharp contrast of early political conglomerations comprising mainly state based parties or regional parties. (See Sheela Bhat's who are the 26 allies in NDA in rediff.com)

Coalition politics that had characterized Indian Politics for more than two decades had its visible merits and glaring demerits. The merits include arousal of People's political consciousness, awareness of democratic and constitutional rights, encouragement of their participation in politics and adoption of many welfare policies and introduction and implementation of a good many numbers of schemes and programmes for removal of social, economic and political ills that stood in the way of equality, security and justice to people. Lots of facilities were provided in both the agricultural and industrial sectors to boost rural and urban economy. The success of coalition politics in India cannot be underplayed in any way, though the implementation of the welfare schemes and programmes is far from satisfactory<sup>1</sup>.

The regional political parties made either pre-poll alliance or post-poll alliance with the Bharatiya Janata Party to form the BJP-led NDA government at the centre till March 2004 and with the Congress party to form coalition government i.e., UPA I and UPA II till April 2014 led various ministries of the central government to adopt and launch programmes to achieve the national goals of equality, social security and justice to all. Universalization of education, provision of health security, legal justice, financial assistance to the poor, helpless women, provision for assistance for helpless women to attain self-reliance, and many such programmes were launched to render social justice to people during the period. Through all such schemes and programmes the central government over the long period of coalition politics had made a good number social legislations on some directive principles which have been

explored and analyzed in this dissertation under different chapters and headings. Even the government within the period of dominance of coalition politics had made laws to prevent various types of violence against women and children and is still deliberating on the necessity of protection to women against rape.

The demerits of the dominance of coalition politics over this periods of two decades cannot be ignored. Corruption which has weakened Indian economy and deprived people of social and legal justice is the aftermath of coalition politics in India though independent India was never free from corruption. During the period of UPA II, government corruption spread the whole nation and assumed a horrible dimension. Some political parties which formed part of the coalition government had reportedly blackmailed the government on different issues and also opposed the government on many issues related to high national interest . Besides the coalition governments were always under the threat of being toppled if some if the demands of some allies were not met Above all, coalition politics strengthened regionalism and regional politics which is inimical to national unity.

The 16<sup>th</sup> Parliamentary election heralded a new era in Indian Politics. Though the BJP , led NDA had replaced the Congress -led UPA II, in the general election 2014 , coalition politics received a deep jolt because the seats bagged by BJP outnumbered the required figure to form majority . Naturally , the allies have lost their dominance over BJP and the importance of coalition politics in national arena has been sharply reduced. Thus it can be said that there has been a come-back of the era of single party dominance . Mr. Narendra Damodardas Modi , who was elected Prime Minister , appears to be paying not much importance to the existence in the matters of allocation of ministries and declaration of his government's future of action though he is committed to the parties election manifestos prepared in prior consultation with NDA allies . Mr. Modi who heads this new government has assured people justice – social, economic legal , security to people with special emphasis on matters of women and children , control and prevention of corruption and above all reconstruction of India in the light of new hope and aspiration in order to build up India as a

developed , democratic and welfare state where no discrimination and deprivation , exploitation and violence will be put up with ; the 16<sup>th</sup> parliamentary election may be interpreted as the virtual death of coalition politics in India , at least, for this term of the government.

**Summary:**

This is an admitted fact that the government is striving to translate the ideals and aspirations of the framers of the Constitution into visible and perceptible realities through the introduction of several welfare and constructive programmes and the implementations of Directive Principles of State Policy. The activism of the judiciary has been an addition to the government effort to render and secure welfare services to the people of India, mainly to the poor, the weaker and backward sections of the society. What is seen and experienced in reality is that the political environment in India is not conducive to the total success of the government's welfare programmes. This is because the political parties are more interested in achieving narrow political ends in the form of building up vote bank. They do not, it is found, to compromise with their political aims, ideologies, values and national interests. Since 1947, the Congress which had been the single, dominant power in India upto 1996 with two breaks for few years has done nothing except Mrs. Gandhi's 20 point programmes, to implement Directive Principles in order to secure social justice to all. During the period of coalition government in India were and are busy forging alliance with the sole aim to reconstruct nation and politics. Corruption is found to dominate political parties and this is so deep rooted in Indian politics that it is an uphill task for any party in power to uproot corruption from all sphere of state.