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Author:

Nikita Singh

Symbiosis Law School, Noida

2nd Year, BBA LL.B.

ENFORCING SOCIO-ECONOMIC RIGHTS IN NEOLIBERAL INDIA**ABSTRACT**

This article is analysis of the socio-economic rights in neoliberal India and factors affecting them. Socio-economic rights are ignored rights in India as well in the world. These are ignored and paid less heed because of unawareness among people what their rights are, dysfunction of the organs of government (legislation, executive and judiciary). In the neoliberal India, socio-economic rights of the citizens were been violated as well as conserved. This was all because of nature of legislation's laws, government's scheme or policies, citizens and the most important role played by judiciary. At the time of Independence of India, socio-economic rights were included in the Indian Constitution in the Part IV as the Directive Principles of State Policy (DPSP). The problem with DPSP is that they are enforced without any valid justification and cannot be enforced by any court. The drafters of the Indian Constitution added the elements in the constitution but till now nearly 60% of the Constitution needs to be interpreted. The neoliberal India has affected the socio-economic rights of people in both positive and negative ways and obviously enforcing them is a big task.

INTRODUCTION

Socio-economic rights refer to the social, economic and cultural rights. International bodies such as UN, SAARC, ASEAN, etc believes that these rights should be provided to everyone without any discrimination. The socio-economic rights are right to education, employment,

adequate standard of living, health and social security. These rights must be guaranteed by States¹. States must ensure socio-economic equality among the citizens.

Neoliberalism is a policy that encompasses both politics and economics and seeks to transfer the control of economic factors from the public sector to the private sector. Many neoliberalism policies enhance the workings of free market and attempt to place limits on government spending, government regulation, and public ownership². India started going neoliberal in the 1990s when India decided to liberalize its economy and the other countries saw India as a good market to trade. The idea that India should also liberalize its economy for development was given by Manmohan Singh, former finance minister. Every single thing in the whole world has its pros and cons and liberalization is no exception to it. Some experts would say that neoliberalism ideology didn't affected the socio-economic rights and helped in the development of India as well but some will be of the opinion that neoliberalism lead to the end of socio-economic rights of people.³ Analyzing the overall situation of India and impacts, effects of liberalizing, it has shown more of a positive change for the development of India..

There are several factors involved in enforcing socio-economic rights in neoliberal India. These factors are Judiciary, Legislation or we can say the government's policies and along with the factors, what are the problems India is facing to enforce ideal socio-economic rights in neoliberal India.

ROLE OF JUDICIARY IN ENFORCING SOCIO-ECONOMIC RIGHTS IN NEOLIBERAL INDIA

It has been observed that Judiciary has acquired broad supremacy over the issues related to socio-economic rights without any resistance from the other organs of government. This can be seen from the interventions of court in the right to food, education, health etc. Supreme Court in its judgment entrenched the right to education to right to free education to the children aged between 6 to 14 years. This was held in the case of Unni Krishnan v State of Andhra Pradesh (1993).⁴. It is a very landmark case in Right to Education and Supreme Court is appreciated for this judgment. From this judgment, we can understand that judiciary has

¹ Available at: <https://www.jstor.org/stable/43239539> {Available at 25/07/21, 1:15PM}

² Available at: <https://www.investopedia.com/terms/n/neoliberalism.asp> {Available at 25/07/21, 1:18PM}

³ Available at:

https://warwick.ac.uk/fac/arts/history/ecc/events/writingrights/workshopprogramme/readingmaterials/oconnell2-death_of_socio-economic_rights.pdf {Available at 25/07/21, 1:25 PM}

⁴ Unni Krishnan v. State of Andhra Pradesh, (1993) 1 SCC 645 (India).

enhanced the quality of government's policy. In these neoliberal times, everyone has right to move to courts if their rights are violated and this is very important for a democracy for its stability.

The same thing happened with the Right to food. Court made changes in the National Food Security Act. Supreme Court has also given some very irrational judgments and Supreme Court was notoriously been in the headlines. The one such judgment is of Almitra Patel case⁵ wherein a large number of slums were removed as it was contended that slums produce more waste and these areas should be demolished. In the report, it was clear that slums don't produce that much waste. Instead of all these facts in consideration, Supreme Court ordered the removal of slums areas without any regard for livelihood and other socio-economic rights. This decision of Supreme Court was questioned and condemned. This case is a clear violation of Right to Livelihood. So, judiciary also has both positive and negative sides. But mostly, judiciary helped neoliberal India in conserving the socio-economic rights. It can be said that court act as catalyst for legal change. We can see this from the various judgments it has given against government's policies and enhanced the quality of the policies to preserve the socio-economic rights.

LEGISLATION'S ROLE IN ENFORCING SOCIO-ECONOMIC RIGHTS IN NEOLIBERAL INDIA.

Legislation is the process of making or enacting laws.⁶ Legislation has a significant role to play in neoliberal India for the enforcement of socio-economic rights. Legislation should make laws that are best fitted to the society and has some rational reasoning behind it. Legislation has made some effective laws and also some laws with flaws. Parliament in 1990s, at the time of neo liberalization had made several independent bodies like SEBI and Competition Commission to stop the practices of corruption and to be more responsible as they are representative bodies. This is a right step to remove the socio-economic evils like corruption and ineffectiveness of an institution.

Also, people and their socio-economic rights need to suffer because of government's rules, policies or schemes which are biased to some specific portion of people (BJP's Hindutava ideology focuses on Hindus more and Muslims and other communities less), election agenda (Ayodhya case's judgment in favor of Hindu party because BJP was ruling party and

⁵ Patel v. Union of India, (2000) 1 SCALE 568 (India); Patel v. Union of India, (2000) 8 SCC 19 (India); Patel v. Union of India, (2000) 2 SCC 166 (India).

⁶ Available at: <https://www.vocabulary.com/dictionary/legislation> {Available at 25/07/21, 1;26 PM}

manipulated judiciary to a great extent), using government's favorite excuse, that is, lack of resources (it is been used in almost every situation like lack of hospitals, education, infrastructure, public parks, roads facilities, etc due to less funds and resources)

In a report, it was found out that cases related to socio-economic rights, nearly 70-80% cases are only from two rights that are Right to education and right to food. Courts are overburdened with such cases. This clearly shows that government or legislation has somewhere lacked in making the law properly and there is no effective implementation to it. Courts need to interpret and enhance the quality of laws for that purpose. Legislature has made some laws that are really illogical and are condemned by society. One of the examples can be of Suicide rules, mentioned in Section 309 of IPC. Initially, in the section, it was mentioned that whoever attempts to commit suicide or does any act towards it will be punished with a imprisonment of one year or fine or both.⁷ We agree that taking one's life is not an option and not acceptable in society and if a person wants to take his own life, it is assumed that he must be going through some mental stress. So, making such harsh laws would only increase stress to the person and to the society in general. Keeping the society in fear would not ensure the implementation of laws. This provision was condemned and it was amended. Mental Healthcare Act, 2017 demanded to bar prosecution if the person is suffering from mental stress. Now, if a person attempts to commit suicide due to any mental pressure, he will not be imprisoned unless he has to prove that he was under some mental stress.⁸ Laws should be made keeping in mind all the factors affecting the society and must have valid reasoning behind it.

PROBLEMS IN ACHIEVING IDEAL SOCIO-ECONOMIC RIGHTS IN NEOLIBERAL INDIA

Most of laws and rights face problems in implementation and the reason why they don't get implemented and interpreted in an effective manner is because of people's unawareness towards their socio-economic rights, social evils and government's manipulation generally as an election agenda.

In the Indian Constitution, the Preamble (most important part or we can say foundation of constitution) needs interpretation. The Preamble contains terms like Socialism, Equality,

⁷ Available at: <https://indiankanoon.org/doc/1501595/> {Available at 25/07/21, 1:28PM}

⁸ Available at: <https://theprint.in/judiciary/is-attempt-to-suicide-punishable-two-laws-have-opposing-views-sc-seeks-govt-response/500905/> {Available at 25/07/21, 1:30PM}

Justice and others. These terms need a wide interpretation and explanation. Just in the books doesn't mean that the rights and laws are effective.

Citizen's unawareness is the main factor that led to non-effectiveness of their socio-economic rights. India's literacy rate is 74% (according to 2021 census) and out of these 74% people, most of them will not knowing about their rights. Due to this unawareness, government take full advantage of the situation by making such laws that protect government more instead of citizens. Citizens should play an active role in the law-making procedure as in a democracy everything is for the citizens. History is the witness that if any major provision is amended, it is only by the will power of the citizens through campaigns, movements, protests, etc.

Social evils that are in the route of socio-economic rights are no education for girls, poor sections of society (violation of Right to education), domestic violence and female infanticide (violation of Right to equality), corruption (violation of entrusted power and state obligation), etc.

Government often manipulated citizens and take advantage in all possible situations. For example, government played with people's religion in the Ayodhya case, played with people's emotions in COVID times by fixing high amounts for treatment that a middle class and poor people cannot afford and data shows that in COVID times, 812 million people in India live below poverty line. Government should be responsible, accountable and transparent especially in the present COVID times.

CONCLUSION

For enforcing socio-economic rights, judiciary, government and citizens have to join hands. Government should make laws that are best suited for the citizens. How can government fix the prices of treatment so high that a poor or middle-class people cannot afford it and knowing that nearly 12.2 crore people lost job in lockdown due to COVID.⁹ This is really harsh on people. In the present times, citizen's right to education, right to food, right to social security, right to health, etc are violated because of government's irresponsibility. Moreover, Judiciary should come forward in these tough times to help out people like migrants, workers, etc but judiciary is also making excuses that it is government's matter and courts cannot intervene. All these things lead to common man's sufferings.

⁹Available at: <https://www.indiatoday.in/education-today/jobs-and-careers/story/around-12-2-crore-people-lost-their-jobs-how-covid-19-will-change-job-prospects-and-hiring-in-india-1713616-2020-08-21> {Available at 25/07/21, 1:32PM}

Socio-economic rights of people should be preserved and rules should favor citizens. India is a democratic country and citizens must be of paramount importance. Cooperation of all three organs and citizens are required for neoliberal India to develop. All these factors (organs of government and citizens) should keep a check and balance on each other to avoid any dysfunction and social evils could be reduced. By these ways, socio-economic rights can be enforced in neoliberal India ideally.



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