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GLOBALIZATION AND PREAMBULAR PROMISES: REALITY OR A DISTANT DREAM¹

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Abstract

Globalization is an integration and interaction between people, companies and governments of different nations which aims at economic development, prosperity and physical wellbeing of human beings in different societies around the world. Everyone has different connotation for the term 'globalization'. Some consider it as a substitute of peace, prosperity, development and advancement; whereas others think that it is a fruitless phenomenon resulting into deprivation, disaster and doom.

Directive Principles of State Policy contained in Part IV of the Constitution of India are the conscience of Constitution. The framers of Indian Constitution, which consists of Preamble, the Fundamental Rights and Directive Principles aim at building an egalitarian society with socio-economic justice as its base. If Fundamental Rights are political pillars of Indian democracy, then its social and economic pillars are Directive Principles. Unlike Fundamental Rights, Directive Principles are non-justiciable. It means they are not enforceable in court of law. This feature of Directive Principles poses a question as to whether they should be considered as veritable dustbin of sentiments or a beautiful vase in which everyone is permitted to put his bunch of flowers?

The irony here is that the globalization is not letting preambular promises turn into reality. The attractive mantras of globalization are fast turning into *raison d'être* of judicial process. The Directive Principles are not fully implemented due to population, globalization, lack of resources in the country, etc. The researcher poses a question as to why the judges try to protect ruling economic policy of globalization at the cost of genuine interest of industrial workers.

¹ The research paper was presented in National Seminar on 'Constitutional Challenges in the Era of Globalization' at Parul Institute of Law, Vadodara, on 25th November, 2017.

Keywords: Globalization, Directive Principles, industrial workers.

“We have over a century been dragged by the prosperous West behind its chariot, choked by the dust, defended by the noise, humbled by our own helplessness and overwhelmed by the speed. We agree to acknowledge that this chariot drive was progress and progress was civilization. If we venture to ask ‘progress towards what and progress for whom’ ... Of late, a voice has come to us that we should not count only scientific perfection of a chariot but the depth of ditches lying in the path.” -Rabindranath Tagore.

Globalization: A new buzzword since three decades

Globalization is a web of economical, political, cultural and geographic process involving the flow of values, ideas, knowledge and technology across the globe. It is also a process which includes free movement of goods and services, capital and labour across the boundaries, making the world, one huge market. Thus there is integration and interaction between people, companies and governments of different nations which aims at economic development, prosperity and physical wellbeing of human beings in different societies around the world. In the year 1990, a sociology professor from University of Aberdeen, Roland Robertson, made the first attempt to define the term globalization as, “The understanding of the world and the increased perception of the world as a whole”. Martin Albrow and Elizabeth King for the first time used the term ‘globalization’ in the title of a book and explained the term as, “Globalization means all those processes by which the people of the world are incorporated into a single world society”. Therefore,

“Globalization is an all embracing term that denotes a world which, due to many politico-economic, technological and informative advancements and developments on is on its way becoming borderless and an interdependent whole”.²

Three decades ago this term was alien to the world but now it is a term which is widely defined. Some people have positive connotation for globalization. They consider it as substitute for peace, prosperity, progress and economic growth, whereas others have negative connotation. They consider it as fruitless phenomenon resulting into deprivation, disaster and doom. *Some tend*

² Macleod Donald V. L., *Tourism, Globalisation and Cultural change: An Island Community Perspective*. (2004: Channel view Publications)

*to see globalization as a brakeless train crushing everything in its path, others see benefit in getting on board the train towards economic growth and modernization.*³

Directive Principles: the philosophy of Indian Constitution

The novel feature and philosophy of Indian Constitution i.e. Directive Principles of State Policy, as contained in Part IV, are the guidelines to be followed by the State while framing legal policies. The framers had designed these principles keeping in mind the ruined economy of the country before independence. They were framed to reconcile between ideals and reality. It is challenging part of Indian Constitution as they do not have legal sanction and cannot be enforced in court of law. These principles can be used for setting a perfect balance between political and economic democracy, which was pledged in for, while drafting Preamble and so they are known as conscience of Constitution. The framers of Indian Constitution, which consists of Preamble, the Fundamental Rights and Directive Principles aim at building an egalitarian society with socio-economic justice as its base. In the words of *Dr. Ambedkar*, “Directive Principles are ‘Instruments of Instructions’, thereby given a place in the fundamental principles to be embodied in the Constitution of India. It has a provision of a welfare state, which plays a key role in protection and promotion of social and economic well being of its citizens. It is rightly said that, just as Fundamental Rights are political pillars of Indian democracy, its social and economic pillars are Directive Principles.

At the time of drafting of Constitution of India, the members of constituent assembly strongly believed that Directive Principles must be made justiciable as Fundamental Rights. But it perceived in the minds of certain members that it would not be practicable to make positive rights justiciable and ultimately Directive Principles were made non-justiciable. In the words of *T.T Krishnamachari*⁴, “Directive Principles is a veritable dustbin of sentiments sufficiently resilient to permit any individual to ride his hobby horse into it.” Ultimately the members of constituent assembly were feeling relieved when Directive Principles were declared to have non-justiciable character. Thereafter Directive Principles were not considered as a ‘veritable dustbin’, but were

³ Mentan Tatah., *Unmasking Social Science Imperialism: Globalisation Theory as a Phase of Academic colonialism*. (2015: Langaa Research & Publishing Common Initiative Group, Bemanda Cameroon)

⁴ Tiruvellor Thattai Krishnamachari was the Indian Finance Minister from 1956-58 and from 1964-66. He was also a founding member of the first governing body of the National Council of Applied Economic Research in New Delhi, India’s first independent economic policy institute established in 1956.

believed to have become a vast beautiful vase in which everyone was permitted to put a bunch of flowers of his own liking or choice.⁵

Are attractive mantras of globalization really beneficial?

The laws should be enacted to promote the common good, by protecting and assisting the weaker members of the society. This is known as social welfare legislation. In this direction, Parliament had enacted various laws such as The Minimum Wages Act (1948), The Maternity Benefit Act (1961), The Equal Remuneration Act (1976), Mahatma Gandhi National Rural Employment Programme (2006), etc to improve the standard of living of the people in general. In spite of above enactments and programmes, Directive Principles are not fully implemented due to population, economic condition, globalization, and lack of resources.

The policy of 'Hire and Fire'

Globalization means integration and interaction between people, companies and governments of different nations. Such integration always leads to fundamental fear among labour class of being exploited by the capitalists. The judges in their judgments express their deep concern over the plight of workers being thrown out of their jobs under the cover of globalization. The High Courts should keep in mind the concept of Social welfare legislation, equality between men and women while imparting justice, as social and economic justice gives sustenance to the rule of law and significance to the ideal of welfare state. In the words of Justice Singhvi, "*The attractive mantras of globalization and liberalization are fast becoming the raison d'être of judicial process and the impression has been created that Constitutional courts are no longer sympathetic to the plight of industrial and unorganized workers.*"⁶

In the case of *Harjinder Singh vs Punjab State Warehousing Corporation*⁷, the appellant was employed in Punjab State Warehousing Corporation as a worker. The managing director of the corporation issued one month's notice for termination of service by the way of retrenchment. The appellant pleaded that the notice was issued as the project on which he was working came to an end. Moreover the order of retrenchment was contrary to Industrial Dispute Act, 1947, as there

⁵ Diwan Paras & Diwan Peeyushi., *Human rights and the Law: Universal and Indian* (1998: Deep & Deep Publications, New Delhi)

⁶ Vishwanathan S., *Time for Judges to Revisit Directive Principles*. The Hindu. March 1, 2010.
<http://www.thehindu.com/opinion/Readers-Editor/Time-for-judges-to-revisit-Directive-Principles/article16531327.ece>

⁷ Harinder Singh vs. Punjab State Warehousing Corporation. 2010 (1) SCR 591.

was violation of the rule 'Last come- first go'. The workers junior to the appellant were allowed to continue in the service. Held, the order of retrenchment was violation of ID Act and so was set aside.

In case of *T. K Rangrajan vs. Government of Tamilnadu*⁸, the Supreme Court's judgment wrongly deprived the workers of their vital right to strike. The honourable court also did not consider the moral and equitable rights of workers.

In the case of *Selvinth Gnanesh Joshua vs. Labour Officer P*⁹, Madras High Court restrained Tata Consultancy Services (TCS) from retrenching an employee, without giving notice for the same. TCS had also decided to terminate the service of 25000 workers and recruit 55,000 freshers, in order to cut cost. Later on the company withdrew the termination order.

In case of *Bhuvnesh kumar Dwivedi vs. M/s. Hindalco Industries Ltd*¹⁰, the labour supervisor was retrenched without due notice of retrenchment and without paying retrenchment compensation. During entire period of service, the employer annually terminated him and reappointed him on the same post with same badge no. with marginal increase of salary and thus kept him as temporary workmen to deprive him of his benefits. Held, the worker was entitled for reinstatement with full wages.

Conclusion and suggestions

In order to save the country from large fiscal imbalances in the year 1991, the government adopted a new policy known as LPG i.e. Liberalization, Privatization and globalization. But after almost three decades we find adverse effect of globalization on industrial labour. Virtually, workers are not left with any rights. The 'Hire and Fire system' is in trend in corporate and industrial world. Many industrial disputes are pending against courts and recent adverse judgments of Supreme Court and High Courts in respect to workers have fuelled their disadvantageous position. Globalization is heading the country towards jobless growth i.e. increasing production and reducing workforce. Cutting down of the wage bill is the major focus of imperialists.

⁸ T. K. Rangrajan vs. Government of Tamilnadu & Others. Appeal (civil) 5556 of 2003

⁹ Subramanil A. *Madras High Court Stays Termination of TCS Employee*. The Times of India. January 13, 2015.
<https://timesofindia.indiatimes.com/city/chennai/Madras-high-court-stays-termination-of-TCS-employee/articleshow/45870194.cms>.

¹⁰ Bhuvnesh Kumar Dwivedi vs. M/S. Hindalso Industries Ltd. Civil Appeal no. 4883-4884 of 2014

Investment in skill development, training and education of work force is the need of an hour. The industrial workers should participate in unions to shelter themselves under collective bargaining agreements. The developing countries should more focus on food processing industries, textile and garment industries, etc, which will increase demand for labour and security of employment. To ensure protection to women workers against sexual harassment at work place, *Visakha*¹¹ guidelines should be strictly followed. The workers through enactment of various laws be assured of minimum wages, job security, house, health clinics, educational scholarships for their children, etc.

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¹¹ Vishakha & Others vs. State of Rajasthan. 1997 (7) SC 384