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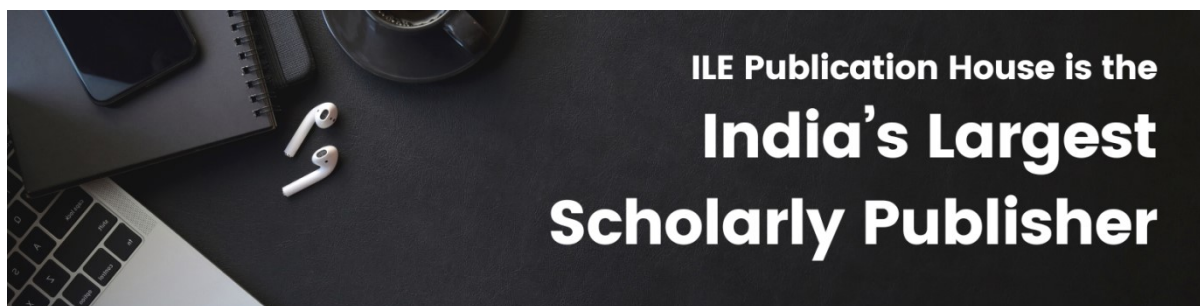
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JUDICIAL ACTIVISM AND THE ENFORCEMENT OF DIRECTIVE PRINCIPLES THROUGH FUNDAMENTAL RIGHTS IN INDIA

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Abstract

This study employs a doctrinal research to critically examine the evolving role of the Indian judiciary in transforming Directive Principles of State Policy (DPSPs) into enforceable rights through an expansive interpretation of Article 21 of the Constitution. While DPSPs were originally conceived as non-justiciable guidelines for governance, judicial activism has increasingly integrated these principles into the realm of Fundamental Rights, thereby enhancing the protection of socio-economic rights such as the right to health, education, and a clean environment. The research explores whether this judicial expansion, though aimed at achieving social justice, has resulted in potential judicial overreach that disturbs the delicate balance of power between the judiciary, legislature, and executive. Employing a doctrinal methodology, the study systematically analyses constitutional provisions, landmark judgments, and scholarly literature to evaluate the impact of this judicial trajectory. The paper also questions whether the judiciary's proactive stance, though often necessary to address legislative and executive inaction, risks undermining the intended democratic structure by encroaching upon the functions of the other branches of government. Through this inquiry, the study seeks to contribute to the ongoing debate on the legitimacy and limits of judicial activism in India's constitutional framework.

I. Introduction

The Indian Constitution represents a remarkable blend of international constitutional principles, carefully tailored to address the unique challenges faced by a newly independent nation. Unlike many countries that had already established their constitutional systems, India's Constitution was crafted in a period of transition and nation-building. The framers extensively studied constitutional models from across the world, selecting elements that would best serve the creation of a welfare-oriented state. A key feature of this Constitution is the nuanced relationship between the Fundamental Rights set out in Part III and the Directive Principles of State Policy (DPSPs) detailed in Part IV. In the words of Granville Austin, *"both types of rights had developed as a common demand, products of the national and social revolutions,*

of their almost inseparable intertwining, and of the character of Indian Politics itself⁶⁶."

Fundamental Rights form the cornerstone of personal freedoms in India, being enforceable through judicial mechanisms. These rights impose restrictions on the state, preventing it from violating individual liberties. In contrast, the DPSPs impose positive obligations on the state, guiding its legislative, executive, and administrative functions towards achieving social and economic justice.

The apparent tension between the enforceable Fundamental Rights and the non-enforceable DPSPs was a significant point of deliberation during the Constitution's drafting. Initially, this distinction was seen as a necessary balance between the immediate practical limitations of

⁶⁶ Granville Austin: *The Indian constitution: cornerstone of a nation* 50 (Oxford: Clarendon Press, 1966).

the fledgling republic and the long-term aspiration to achieve a socially progressive agenda. Although some members advocated for making DPSPs enforceable by law, the framers ultimately reached a compromise reflected in Article 37. This provision affirms that while DPSPs are not justiciable, they hold substantial importance in shaping national policy and governance.

The evolving relationship between Fundamental Rights and DPSPs has been a subject of extensive judicial interpretation, particularly through the lens of Article 21, which safeguards the right to life and personal liberty. Over time, the Indian judiciary—most notably the Supreme Court—has progressively integrated elements of the DPSPs into the realm of Fundamental Rights, often blurring the traditional boundary between the two through expansive readings of Article 21.

In significant rulings like *Maneka Gandhi v. Union of India*⁶⁷, broadened the scope of Article 21 to include the right to live with dignity. Such liberal interpretations have effectively rendered many DPSPs enforceable, as the judiciary has used Fundamental Rights to give teeth to principles that were originally intended as guiding objectives rather than binding obligations.

This proactive judicial approach has significantly advanced social and economic rights in India. However, it has also sparked ongoing debates about whether the judiciary has, at times, overstepped its constitutional role, potentially upsetting the separation of powers among the legislature, executive, and judiciary. Despite these concerns, the judiciary's active role has been instrumental in realizing many welfare goals initially embedded in the DPSPs.

The Constitution's dynamic development is evident in its adoption of positive rights inspired by the Irish Constitution, along with the Indian judiciary's evolving interpretation of these principles within the framework of Article 21. Nonetheless, there remains a risk that such

judicial creativity could verge on overreach, threatening the carefully maintained constitutional balance.

This study seeks to critically assess how judicial interpretations of Article 21 have influenced the interplay between DPSPs and Fundamental Rights by carrying out a doctrinal research. It further examines whether the judiciary's efforts to enforce DPSPs through the vehicle of Fundamental Rights have, in some instances, led to judicial overreach and altered the balance of power among the three branches of government. By analysing key judgments and emerging legal trends, this research aims to provide a comprehensive evaluation of the evolving constitutional landscape and its implications for governance in India.

A. Research Objectives

1. To analyse the impact of the judiciary's interpretation of Article 21 on the enforceability of Directive Principles of State Policy (DPSPs) through Fundamental Rights.
2. To examine whether judicial interpretation has facilitated the integration of DPSPs into Fundamental Rights.
3. To assess whether the judiciary's proactive role in enforcing DPSPs has affected the constitutional balance of power between the judiciary, legislature, and executive in India.

B. Research Questions

1. To what extent has the judiciary's interpretation of Article 21 influenced the enforceability of Directive Principles of State Policy (DPSPs) through Fundamental Rights in India?
2. Does the judicial enforcement of DPSPs through Fundamental Rights result in judicial overreach, thereby affecting the constitutional balance of power among the three branches of government?

⁶⁷ 1978 AIR 597.

C. Literature Review

1. Justice S. Muralidhar, *The Expectations and Challenges of Judicial Enforcement of Social Rights* (2008).

Justice Muralidhar explores the Indian judiciary's role in enforcing social and economic rights. His work focuses on the constitutional relationship between Fundamental Rights and DPSPs, particularly through landmark rulings in areas such as housing, healthcare, and education. The paper highlights the evolution of Public Interest Litigation and addresses the systemic challenges involved in the realisation of these rights, including limitations in access to legal aid. The author concludes by reflecting on the continuing importance and complexity of judicial enforcement in the socio-economic domain.

2. Shelal Lodhi Rajput & Ashwin Singh, *Evolution of DPSP into FRS with Changing Time, 17 Supremo Amicus* (2021) .

This article traces the transformation of select DPSPs into enforceable Fundamental Rights through judicial activism and legislative interventions. It highlights key milestones, such as the recognition of the Right to Education and environmental rights, underscoring the judiciary's critical role in this evolution. The authors caution, however, that such developments must align with the constitutional vision of the framers and that further evolution should be approached with structural balance in mind.

3. Sumant Sharma, *Justiciability of Directive Principles of State Policies*, 4 J. Contemp. Issues L. 9 (2018) .

Sharma provides a detailed examination of the historical foundations and classifications of DPSPs, analysing their transformation from non-justiciable guidelines to policy-shaping instruments. The article emphasises the judiciary's role in progressively integrating DPSPs into the enforcement framework of Fundamental Rights, while also noting the

careful balancing act required to maintain constitutional integrity.

4. Devdatta Mukherjee, *Judicial Implementation of Directive Principles of State Policy: Critical Perspectives*, 1.1 Int'l J.L. & Pol'y 14 (2014-15)

Mukherjee critically analyses the judiciary's proactive enforcement of DPSPs, arguing that this development, while socially progressive, raises significant concerns about judicial overreach. The article highlights the judiciary's influence in expanding the scope of litigable rights and its growing encroachment into areas traditionally governed by the legislature and executive. The work underscores the tension between social justice objectives and institutional boundaries.

5. *Maneka Gandhi v. Union of India*, (1978) 1 S.C.C. 248

The Maneka Gandhi judgment remains a cornerstone in the expansion of Article 21, fundamentally altering the understanding of 'life and personal liberty'. The Court's interpretation embedded principles of fairness, reasonableness, and justice into the due process of law, effectively incorporating several DPSPs into the enforceable domain of Fundamental Rights. This landmark decision illustrates the judiciary's pivotal role in enhancing the social justice framework of the Constitution.

6. Shaheen Marakkar & K. Anila, *Socio-Economic Rights and Judicial Review*, 6 Int'l J.L. Mgmt. & Human. 2117 (2023)

Marakkar and Anila offer a nuanced discussion on the enforcement of socio-economic rights through judicial review, highlighting the challenges of balancing human dignity with the principle of separation of powers. The article compares judicial approaches from India and South Africa, critically evaluating frameworks like the 'minimum core' and 'reasonableness' models. It argues for a cautious, yet effective, judicial strategy that upholds socio-economic

rights without unduly infringing upon the domains of the legislature and executive.

II. The Constitutional Foundations of Directive Principles and Fundamental Rights

A. Role of Directive Principles: Ideals and Aspirations behind the Constitutional Framework

Inspired by Article 45 of the Irish Constitution, the framers of the Indian Constitution introduced the Directive Principles of State Policy (DPSPs) within Articles 36 to 51 under Part IV. These principles were intended to provide the State with essential guidance for advancing social and economic justice. Considering the social and economic challenges that India faced in the aftermath of colonial rule, the inclusion of DPSPs reflected a unique synthesis of constitutional vision and historical experience. These principles draw from socialist values—evident in Articles 38, 39, 39A, and 43A—as well as Gandhian philosophy, particularly Articles 40, 43, 47, and 48, which promote rural development, self-sufficiency, and social welfare. The overarching goal of the DPSPs is to achieve distributive justice and reduce social inequalities.

Following extensive deliberation in the Constituent Assembly, the framers collectively agreed that due to the country's financial and administrative limitations at the time, these principles would be framed as non-justiciable. However, Article 37 clarifies that despite their non-enforceability, DPSPs hold moral and political weight and must guide the policies and actions of the State. The framers saw these principles as indispensable for building an egalitarian society and considered them fundamental to effective governance.

Over time, the judiciary has increasingly turned to the DPSPs to ensure that the State remains faithful to its constitutional duties. This has been achieved primarily by expanding the scope of Fundamental Rights to incorporate the objectives set out in the DPSPs. The Indian judiciary has thus played a pivotal role in

integrating the positive obligations found in Part IV with the first-generation civil liberties enshrined in Part III, ensuring that the Directive Principles continue to shape the evolving needs of Indian society.

B. Balancing Civil Liberty and Justice: The Inter Relation Between Fundamental Rights And DPSPs

The interplay between civil and political rights enshrined in Part III which limits State interference and socio-economic rights outlined in Part IV of Constitution, requiring positive action on the part of State to achieve social justice reflects the changing societal values and priorities. The interrelationship between them highlights the need to strike a balance between individual liberty and collective well-being. From historical perspective, these two rights have always been inextricably linked together universally, capturing an intrinsic desire for comprehensive justice. This desire can be evidently traced back to UDHR which sets out that both these rights are essential for the complete realisation of human liberty and dignity, emphasising that they are interdependent and indivisible.

The dynamic between the civil and political rights listed in Part III, which serve to restrict unwarranted State intervention, and the socio-economic directives of Part IV, which require affirmative action from the State, reflects India's shifting societal priorities. This interconnection underscores the importance of balancing individual freedoms with the collective goal of social justice. Historically, both categories of rights have been intertwined across global constitutional frameworks, illustrating a shared aspiration for holistic justice. This connection is also evident in the Universal Declaration of Human Rights (UDHR), which underscores that civil-political and socio-economic rights are mutually dependent and inseparable in the full realization of human dignity and freedom.

Commenting on this relationship, Pandit Jawaharlal Nehru aptly noted that while Fundamental Rights serve as safeguards for

existing liberties, the Directive Principles articulate the progressive ambitions of the nation. Despite their distinct nature, both rights have evolved together, capturing the dual demands for personal liberty and social equity that shaped India's independence movement. Initially, the Supreme Court of India held a rigid view that the DPSPs must yield to Fundamental Rights⁶⁸. However, this stance gradually softened through key judgments such as *Re: Kerala Education Bill*⁶⁹, *Pathumma v. Kerala*⁷⁰ and *Minerva Mills*⁷¹ wherein it stated that in instances of conflict between Part II and part III, Court must harmoniously interpret the Constitution in a manner as to give effect to both the provisions, thus adopting a more balanced approach.

where the Court emphasized that the Constitution should be read harmoniously, allowing both Fundamental Rights and DPSPs to co-exist and be given simultaneous effect.

The legislative argument that financial limitations obstruct the implementation of DPSPs is increasingly weak in the context of India's sustained economic development. It could be argued that the issue lies more with inadequate resource prioritization, as essential welfare objectives often remain unmet despite the country's financial capacity. Moreover, civil and political rights cannot function in isolation since ensuring these freedoms often requires proactive measures by the State. Modern constitutional democracies are built on the foundations of justice and equality, distinguishing themselves from older governance systems that prioritized duties over individual rights. As aptly stated, "It is the business of the state to maintain the conditions without which a free exercise of the human faculties is impossible⁷²." Globally, the once-clear distinction between civil-political rights and socio-economic rights has become

increasingly blurred, particularly in developed countries where both sets of rights are regarded as equally significant. This international trend supports the balanced approach that has been consistently promoted by the Indian judiciary.

III. Transformative Justice : Judicial Evolution of DPSP as Fundamental Rights

A. Initial Approach : Superiority of Fundamental Rights

In the initial years of the Republic, the Indian judiciary adopted a strict and literal interpretation of constitutional provisions, firmly establishing that Directive Principles of State Policy (DPSPs) were non-justiciable and, therefore, not legally enforceable, unlike Fundamental Rights. The courts consistently upheld the primacy of Fundamental Rights, even in situations where the State's actions, aimed at fulfilling the socio-economic objectives outlined in the DPSPs, appeared to conflict with individual liberties. A notable illustration of this stance is *Champakam Dorairajan*⁷³, where the Supreme Court examined whether Article 46 could supersede the guarantees provided under Articles 14, 15, 16, and 29(2). The Court unequivocally held that Fundamental Rights take precedence and warned that allowing them to be subordinated to DPSPs would reduce these rights to a "mere rope of sand." It further affirmed that Directive Principles serve only as non-enforceable guidelines, drawing a sharp distinction between the two constitutional mandates. During this phase, the judiciary remained firmly aligned with the text of the Constitution, showing skepticism towards any State action that encroached upon Fundamental Rights, even when such action aimed to promote public welfare. However, a slight shift in this rigid view emerged in *Re Kerala Education Bill*⁷⁴ and *I C Golakhnath*⁷⁵, where the Court, employing a harmonising approach, began to acknowledge the importance of balancing individual rights

⁶⁸ See *State of Madras v. Champakam Dorairajan* 1951 SCR 525

⁶⁹ 1958 AIR 956

⁷⁰ 1978 2 SCC 1

⁷¹ 1980 3 SCC 625

⁷² T.H Green, Lectures on the Principles of Political Obligation 24 (Longmans, Green & Co. 1941)

⁷³ *State of Madras v. Champakam Dorairajan* 1951 SCR 525

⁷⁴ *Supra* note 4

⁷⁵ *I C Golakhnath v. State of Punjab* 1967 AIR 1643

with the Constitution's social and economic goals.

B. Directive Principles Energised: Bringing The Human Rights Perspective By The Courts Post Emergency Period

The period following the Emergency of the 1970s marked a significant transformation in the judiciary's perception of its role within the constitutional structure. The judiciary began to see itself not merely as an interpreter of the law but as a vigilant guardian of constitutional principles and the rule of law. This era witnessed the emergence of Public Interest Litigation (PIL), which became a pivotal tool for judicial activism, particularly in advancing the enforcement of DPSPs through Fundamental Rights. The PIL mechanism, combined with an expansive reading of the 'right to life,' became instrumental in addressing the socio-economic disparities pervasive in Indian society. Justice Hegde in *Kesavananda Bharathi* noted, aptly remarked that the Indian Constitution functions as a social contract, with its Preamble and core provisions striving to achieve social transformation by promoting justice across all spheres. He emphasised that Parts III and IV together form the ethical foundation of the Constitution and embody its true spirit.⁷⁶

C. Expanding Article 21: The Maneka Gandhi Case⁷⁷ and Beyond

The Maneka Gandhi case⁷⁸ marked a decisive break from the judiciary's earlier restrictive reading of 'right to life and personal liberty' as seen in *A.K. Gopalan v. State of Madras*. The Supreme Court clarified that the right to life extends beyond mere physical existence to encompass a life of dignity. This liberal interpretation became a cornerstone for incorporating socio-economic rights into the ambit of Article 21. The Court strategically circumvented the non-justiciability of DPSPs by recognising rights such as access to healthcare,

education, and a clean environment as essential components of the 'right to life.' Through this approach, the judiciary significantly expanded the reach of Fundamental Rights, effectively offering constitutional protection to several socio-economic entitlements that were originally part of the non-enforceable Directive Principles.

D. Transforming aspirations into reality : The Judicial incorporation of DPSPs into Fundamental Rights

The progressive interpretation of Article 21 has been instrumental in bringing socio-economic rights, originally conceived as mere policy objectives, within the enforceable framework of Fundamental Rights. The judiciary's recognition that a dignified life, as articulated in *Maneka Gandhi*⁷⁹ necessarily requires socio-economic protections, has enabled the transformation of many DPSPs into justiciable rights. This judicial approach has gradually bridged the constitutional divide, treating DPSPs not as abstract guidelines but as concrete rights essential for human development. Through its proactive role, the judiciary has incorporated rights such as food, housing, and social security into the fold of Fundamental Rights. A prime example is the right to education, which was initially framed as a Directive Principle under Article 45, but following sustained judicial engagement and landmark decisions, was elevated to a Fundamental Right under Article 21A. Over time, Article 21 has undoubtedly become the most fertile constitutional ground for the operationalisation of DPSPs, serving as a key vehicle for their effective realisation.

1. Right to Work and Fair Working Conditions

The Indian judiciary has actively worked towards incorporating the right to work, as envisaged in Articles 41, 42, and 43, through a series of landmark judgments. The Supreme Court has consistently recognised that depriving an individual of their livelihood effectively amounts to denying their right to life,

⁷⁶ *Kesavananda Bharati v. State of Kerala* 1973 4 SCC 225; AIR 1973 SC 1461 p 292

⁷⁷ *Maneka Gandhi v Union of India* 1978 AIR 597

⁷⁸ *id.*

⁷⁹ *supra* note 12

as the right to livelihood is fundamentally intertwined with the right to life. This interpretation aligns with Articles 39(a) and 41, which impose an obligation on the State to ensure adequate means of subsistence and provide the right to work, within the constraints of available resources. The Court further reinforced this position in **D.K. Yadav**⁸⁰, where it emphasised that livelihood must not be reduced to mere survival but should encompass humane working conditions, as outlined in Articles 42 and 43. This connection was explicitly acknowledged in **Bandhua Mukti Morcha**⁸¹, where the Supreme Court held that Article 21 includes the right to humane working conditions and a living wage, thereby advancing the protections embedded in Articles 42 and 43.

On the question of living wages, the Supreme Court has made it unequivocally clear that the denial of wages constitutes a violation of Article 21, as it compromises the right to live with dignity, effectively operationalising the directive under Article 43.⁸²

Additionally, the Court has shown strong support for the rights of labourers, especially when considering whether they are entitled to be heard during the winding-up of a company.⁸³ Referring to Article 43A, which encourages the participation of workers in management, the Court observed that overlooking the concerns of labourers would be unjust, further advancing the trend of integrating Directive Principles through the medium of enforceable Fundamental Rights.⁸⁴

2. Right to basic standards of living

The right to essential living standards—including access to food, shelter, and adequate nourishment—has been recognised by the judiciary as intrinsic to the right to life under Article 21. In **Francis Coralie**⁸⁵ the Court held that

the right to live with dignity necessarily includes access to basic necessities such as food, clothing, and shelter. This interpretation closely aligns with the principles enshrined in Articles 39(a) and 47, which mandate the State to secure adequate livelihoods and improve nutrition and living standards.

In addition, the right to clean drinking water has been explicitly recognised as part of the right to life, with the Supreme Court affirming that access to potable water is a basic human right that the State must safeguard, thereby reinforcing its duty under the Directive Principles.⁸⁶

The judiciary's approach to the right to shelter has evolved over time. In **Olga Tellis**⁸⁷ and **Sodan Singh v. NDMC**⁸⁸, the Court took a narrow view, ruling that eviction from pavements did not violate Article 21, placing greater emphasis on statutory compliance rather than broader human rights considerations. However, later judgments, such as **AMC v. Nawab Khan**⁸⁹ and **Chameli Singh v. U.P.**⁹⁰ explicitly recognised the right to shelter as a vital component of Article 21 and underscored the State's constitutional duty under Articles 38, 39, and 46 to ensure socio-economic justice.

3. Right to Pollution-free Environment

The Supreme Court's environmental jurisprudence has been one of the most dynamic areas where Article 21 has been expansively interpreted to include environmental rights. The Court has repeatedly held that the State bears the responsibility to protect and improve the environment, with a clean and healthy environment being essential to a dignified life. In landmark cases such as **M.C. Mehta**⁹¹ and **Subhash Kumar v. State of Bihar**⁹² the Court unequivocally established that environmental protection is inseparable from

⁸⁰ D.K. Yadav v. J.M.A. Industries AIR 1993 SC 857

⁸¹ Bandhua Mukti Morcha v. Union of India 1984 AIR 802

⁸² People's Union for Democratic Rights v. Union of India 1983 SCR (1) 456

⁸³ National Textile Workers Union v. P.R. Ramakrishnan 1983 AIR 75

⁸⁴ id.

⁸⁵ Francis Coralie Mulin v. Administrator, Union Territory of Delhi 1981 AIR 746

⁸⁶ Narmada Narmada Bachao Andolan v. Union of India 2000 SCR (10) 638

⁸⁷ supra note 17

⁸⁸ Sodan Singh v. New Delhi Municipal Committee 1989 4 SCC 155

⁸⁹ Ahmedabad Municipal Corporation v. Nawab Khan Gulab Khan (1997) 11 SCC 121

⁹⁰ 1995 SCC Supl. (6) 827

⁹¹ (1987) 1 SCC 395

⁹² 1991 AIR 420

the right to life under Article 21, directly invoking the State's duty under Articles 48A and 47. Environmental Public Interest Litigations have been instrumental in enabling the judiciary to not only affirm the right to a clean environment as a Fundamental Right but also develop important environmental principles, such as the Precautionary Principle and the Polluter Pays Principle. The Supreme Court, through various decisions, has consistently elevated the State's directive to preserve the environment under Article 48A to the status of an enforceable right under Article 21.

4. Right to Health

Among the socio-economic rights enforced through judicial interpretation, the right to health has perhaps faced the least resistance regarding justiciability. Although Article 47 frames the State's duty to provide public health facilities as a Directive Principle, both the Supreme Court and High Courts have consistently affirmed that the right to health is a crucial element of the right to life. Judgments in *Paschim Banga Khet Mazdoor Samity v. West Bengal*⁹³, *CERC v. UOP*⁹⁴ and *Punjab v. Mohinder Singh*⁹⁵ have all firmly established that the right to health is an enforceable Fundamental Right, binding upon the State.

5. Right to Education

The transformation of the right to education from a Directive Principle under Article 45 to a Fundamental Right under Article 21A is a significant achievement, largely driven by judicial intervention. The Supreme Court's rulings in *Mohini Jain*⁹⁶ and *Unnikrishnan v. A.P.*⁹⁷ were instrumental in this evolution. In *Unnikrishnan*, the Court went so far as to question the government on why, even after more than four decades since the Constitution's adoption, the directive to provide free and compulsory education remained unrealised. The Court

openly criticised the State's priorities and allocation of resources. This judicial pressure eventually led to the enactment of the 86th Constitutional Amendment, which formally enshrined the right to free and compulsory education for children aged six to fourteen as a Fundamental Right.

IV. Judicial Activism and Debate on Separation of Powers

A. Judicial Implementation of DPSP and its Implications on Constitutional Governance

The Indian judiciary, through sustained judicial activism, has played a pivotal role in weaving the Directive Principles of State Policy (DPSPs) into the fabric of enforceable Fundamental Rights. Judicial activism refers to a judicial philosophy where decisions are shaped by judges' interpretations of social policy and justice. This interpretative approach has allowed the courts to enter socio-economic domains traditionally governed by the legislature and executive, thereby addressing gaps left by these branches.⁹⁸

Over the last four decades, the Supreme Court has moved away from its earlier restrictive interpretations and has increasingly recognised that Part III of the Constitution not only guarantees civil and political rights (negative rights) but also encompasses enforceable socio-economic entitlements. While this expansive reading of Fundamental Rights has been widely lauded for advancing social justice, it has simultaneously sparked concerns regarding potential judicial overreach and its consequences for the principle of separation of powers—a foundational element of the Indian constitutional system.⁹⁹

On the one hand, this progressive judicial posture has enabled the enforcement of rights previously considered non-justiciable, broadened the scope of standing through Public Interest Litigations (PILs), and positioned the judiciary as an active stakeholder in

⁹³ *Paschim Banga Khet Mazdoor Samity v. State of West Bengal* (1996) 4 SCC 37

⁹⁴ *Consumer Education & Research Centre v. Union of India* 1995 AIR 922

⁹⁵ *State of Punjab v. Mohinder Singh Chawla* 1997 2 SCC 83

⁹⁶ *Mohini Jain v. State of Karnataka* 1992 AIR 1858

⁹⁷ *Unnikrishnan J.P. v. State of Andhra Pradesh* 1993 AIR 2178

⁹⁸ Former Solicitor General of India, Mr. Dipankar P. Gupta, *Hindustan Times*, June 15, 2017

⁹⁹ *id.*

shaping and enforcing socio-economic rights. On the other hand, this activism has also risked blurring the institutional boundaries between the judiciary and the legislature. The latter, by constitutional design, holds the primary mandate to formulate and implement policy. When courts prescribe specific policies, dictate resource allocation, or impose deadlines on government functions, they risk undermining the sanctity of parliamentary democracy and the legislative process. Such judicial assertiveness may inadvertently disincentivize the executive from proactively discharging its responsibilities, encouraging a tendency to defer complex policy decisions to the courts instead of engaging in robust governance.¹⁰⁰ In such instances, the judiciary should strive to hold administrative authorities accountable by compelling action through appropriate orders, rather than substituting judicial directives for administrative decisions. The solution lies in judicial oversight that enforces compliance without crossing into the domain of policy-making.

Another challenge to this approach is the practical enforcement gap. While rights such as the right to health and the right to a pollution-free environment have been judicially recognised as extensions of Article 21, their substantive realisation remains limited. This suggests that judicial recognition, though symbolically significant, is not always sufficient to bring about meaningful change on the ground. Consequently, the transformation of DPSPs into enforceable rights may risk diluting the very notion of 'rights' if such rights remain inaccessible or ineffectively implemented for the marginalised. This could lead to the delivery of merely symbolic justice, fostering a false sense of empowerment among disadvantaged communities.

While judicial activism has undeniably contributed to India's socio-legal progress by addressing critical social concerns, it is equally necessary for the judiciary to acknowledge its

institutional limits and refrain from consistently assuming the roles of the legislature and executive. Although the courts, as guardians of the Constitution, may intervene in exceptional circumstances that warrant immediate action, such interventions must be carefully calibrated to preserve the constitutional equilibrium among the three branches of government. An alternative approach to this issue could involve reimagining the constitutional status of DPSPs, drawing inspiration from jurisdictions like South Africa, where socio-economic rights are expressly justiciable. The South African Constitution places a positive obligation on the State to progressively realise these rights, subject to resource availability. Such a model encourages active participation from both the legislature and executive in achieving social objectives, rather than relying primarily on judicial solutions.

B. Judicial Activism – A Necessary Evil?

Despite the criticism it attracts, judicial activism, particularly in the context of integrating Directive Principles of State Policy (DPSPs) into the realm of Fundamental Rights, has undeniably advanced the socio-economic rights of citizens, especially those from marginalised and underprivileged communities. In India's present socio-political climate—where the legislature and executive often display apathy or inertia in addressing entrenched inequalities—judicial intervention appears to serve as a necessary, though imperfect, corrective mechanism. In this sense, judicial activism may be viewed as a 'necessary evil' in the pursuit of justice when the other branches of government fail to discharge their constitutional responsibilities.

The roots of this judicial assertiveness can be traced to the relaxation of locus standi through the proliferation of Public Interest Litigations (PILs), which allowed the Supreme Court to give voice to the disenfranchised. Through this jurisprudential evolution, the Court has been able to enforce a broad spectrum of rights—such as the right to livelihood, health, shelter,

¹⁰⁰ *id.*

food, and a clean environment—by reading the DPSPs in conjunction with the expansive interpretation of Article 21. As Justice Krishna Iyer aptly noted, “Judicial activism gets its highest bonus when its order wipes some tears from some eyes.”¹⁰¹

The judiciary’s sustained efforts to translate constitutional ideals into tangible realities by elevating non-justiciable DPSPs into enforceable rights have been instrumental in the country’s socio-legal development. Whether it is the Court’s contribution to environmental jurisprudence in *M.C. Mehta*¹⁰² or recognition of right to education as Fundamental right in *Unni Krishnan*¹⁰³, such proactive judicial engagement has become a cornerstone in the realisation of constitutional promises. This intervention assumes particular significance in a society plagued by structural inequalities, where vital socio-economic concerns are frequently neglected by other state institutions. As G. Austin has rightly observed, the Supreme Court of India carries the responsibility of safeguarding the rights and futures of socio-economic and religious minorities.¹⁰⁴ The Court has consistently reiterated that the Constitution must be a living document, one that evolves to meet the exigencies of successive generations and responds to the crises faced by humanity over time. It is not a transient legal framework designed for immediate application, but a dynamic foundation capable of accommodating the country’s future needs.

V. Conclusion

The Constitution of India is a carefully constructed blueprint intended to secure justice, liberty, equality, and fraternity for all its citizens. As Granville Austin aptly described, the Directive Principles were incorporated to ensure that “tree of true liberty” would eventually flourish in India where individual rights are safeguarded from both the state and from

societal encroachment¹⁰⁵. Although the DPSPs were made non-justiciable by design, they were never intended to be dormant; rather, they were meant to guide the legislature in shaping laws and policies conducive to social welfare.

There is a need for the legislative and executive branches to adopt a more proactive stance in actualising these principles. A committed legislative effort would not only fulfil the constitutional vision but would also ease the burden currently shouldered by the judiciary. While judicial activism has played a valuable role in advancing socio-economic rights, such interventions must be carefully balanced to ensure that the judiciary does not routinely intrude upon the domains of the other constitutional organs. Maintaining the separation of powers remains essential to the integrity of India’s democratic framework.

Over the years, the judiciary has sought to secure socio-economic justice by incorporating DPSPs into the ambit of Fundamental Rights, particularly through the liberal interpretation of Article 21. This transformative judicial approach has earned praise for its dedication to realising constitutional promises.¹⁰⁶ Yet, the effective enforcement of these rights cannot be achieved solely through judicial pronouncements; it also demands strong political will and efficient governance. The persistent failure to implement the principles recognised as fundamental to the governance of the country—despite the recommendations of various commissions and committees—underscores the lack of commitment from the political leadership.

It is crucial to recall that the enforcement of DPSPs was originally envisaged as the responsibility of democratically elected representatives, not the judiciary. Therefore, it is incumbent upon the legislature to fulfil its constitutional obligations in securing the socio-economic rights of the nation’s citizens.

¹⁰¹ Azad Rickshaw Pullers Union v. State of Punjab, AIR 1981 SC 141

¹⁰² supra note 29

¹⁰³ supra note 35

¹⁰⁴ supra note 1

¹⁰⁵ supra note 1

¹⁰⁶ Constituent Assembly Debates, vol 7, 41 (Lok Sabha Secretariat 1986) (statement of Dr B. R Ambedkar 4 November 1948)

In conclusion, while the Indian judiciary has commendably infused the DPSPs with enforceable status under Part III of the Constitution, thereby transforming them from non-binding directives into actionable rights, the full realisation of the constitutional vision of an egalitarian society necessitates a coordinated effort by all three branches of government. Judicial activism, though instrumental, cannot substitute for sustained legislative action and executive accountability in achieving social justice.

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