



FDR'S SECOND BILL OF RIGHTS AND DIRECTIVE PRINCIPLES OF INDIAN CONSTITUTION

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Introduction

The Universal Declaration of Human Rights (UDHR) was adopted by the United Nations General Assembly on 10th December, 1948. The Declaration came into existence due to impact of World War II. The principles and the provisions embodied in the Declaration were adopted by various Constitutions. Later some other conventions took place to give effect to the aforesaid Declaration.

On January 11, 1944, at State of Union Address the President of United States Franklin D. Roosevelt delivered the greatest speech of 20th century. In his speech he excoriated those American's with selfish and partisan interests, who tried to profit themselves from war and those who had sought to avoid the prodigious sacrifices it required. If there was a time to subordinate individual or group selfishness to the national good, Roosevelt proclaimed "that time is now".

The Constitution of India was one of the Constitution which came into existence in the after years of UDHR and FDR's address. The principles and provisions of UDHR and FDR's second bill of rights can be seen in the Indian Constitution. Some of it found as Fundamental Rights and some are as Directive Principles of State Policy. These

Fundamental Rights are binding in nature but the Directive Principles of State Policy are not of binding nature. The Directive Principles under the Constitution is of much similar thought as FDR once had. The rights which FDR proposed in his address are somehow seem more relative to the Directive Principles of Constitution. The similarity of these two concepts becomes more important when it comes to the enforcement of them. After death of Franklin D. Roosevelt no single president of United States ever talked about enforcement of his Second Bill of rights neither in Indian case it is ever attempted by any government to make this part of the Constitution enforceable in the Court of law.

Universal Declaration of Human Rights and FDR's Second Bill of Rights

During the World War II the four freedoms were adopted by allied Nations, which were Freedom of Speech, Freedom of Assembly, Freedom from Fear and Freedom from want, as their basic war aims. Later the United Nations reaffirmed faith in the fundamental human rights. It promoted the universal respect and observance for human rights and also promoted the freedoms for all without distinction as to race, sex, language or religion.

During the WW II Nazi's atrocities on Jews were enough to show the world community that the UN charter was not sufficient to deal with the Human Rights. A Universal law was required to deal with the issues regarding human rights protection. Then a commission on human rights was constituted which initially prepared an International Bill of Rights. This commission had representatives from many Nations including India. And finally it was adopted as



Universal Declaration of Human Rights, 1948¹ by vote of 49 countries in favor of it on December 10, 1948. The declaration is followed by to International Covenants, which are: International Covenant on Economic, Social and Cultural Rights, 1976² and the International Covenant on Civil and Political Rights, 1976³. These covenant were adopted to give the force to the UDHR.

However, these covenants are not enough to promote and protect the human rights of individual of a person. Not so far, four years before the UDHR came into existence the United States optimistic, aging, self assured, wheelchair-bound President, Franklin Delano Roosevelt delivered his union address to Congress. His address was not so elegant, it was messy, unruly and not at all literary. But it was a revolutionary address because it was proposing the Second Bill of Rights. Due to the content of the address it became the one of the greatest speech of the 20th century.

Today his speech is forgotten and his idea of Second Bill of Rights also. But it helped ironically to shape the countless constitutions throughout the world and to frame the UDHR. He delivered his speech at noon on 11 January, 1944, during it that time the United States was involved in its longest conflict since civil war. President Roosevelt began his speech with “ it is our duty now to begin to lay the plans and determine the strategy for the winning of a lasting peace and the establishment of an American standard of living higher than ever before known...”. His speech was peace centric and he wanted to uplift the standard of living of middle class American people, he concerned about ill-

feeding, ill-clothing, ill-housing and insecurities. He further said that now these civil and political rights are insufficient to get a better life and we need some rights which are more economic, social and cultural in nature than civil and political. Then he suggested some rights which he thinks can uplift the living standard of American people. These rights were related to jobs, adequate food and clothing and recreation, for farmers to get a return sufficient return form his product live a decent life, for big or small businessman to trade in free atmosphere, a right to have a home, right to adequate medical care, right to adequate protection for old age and right to good education. These rights a first instance seems very easy to provide and of general welfare but because they are of economic nature so it was difficult to assure the people of United States with these rights when the WW II was ongoing. So he said in the end also that when they will won the war they will work forward to implement these rights and will achieve the new heights of living standard of human being.

Well, the speech was forgotten later by the American people and the idea of Second Bill of Rights was also lost. Although, it played very important role in formation of Universal Declaration of Human Rights and International Covenant on Economic, Social and Cultural Rights (ICESCR). As Mr. Patrick J. Austin said in his research paper on Second Bill of Rights “The ICESCR was rooted in Rooseveltian ideology due to Eleanor Roosevelt’s involvement in its inception. Along with the Rooseveltian influence, there is a consistent theme found in FDR’s Economic Bill of Rights and

¹ UDHR, 217(III)A

² UNGA Res. 2200A (XXI), 1966

³ UNGA Res. 2200A (XXI), 1966



Eleanor Roosevelt's ICESCR – the government must be empowered to secure and promote the liberties of individuals...” Further he says “ both seek to fundamentally alter the relationship between the individual and the government by establishing a new, wide-ranging set of positive rights afforded to all citizens and requiring government action to adequately deliver those rights...” Roosevelt’s vision was undoubtedly inspiring but it went under ignorance by the American people itself.

FDR in his address on Jan 11, 1944, proposed eight new types of rights. These rights more or less are enshrined in the Constitution of India under Part IV. The rights under this part are in the form of directive principles of the State and as discussed above are not enforceable by the Court of law. In FDR’s Second Bill of Rights the proposed rights were:

- I. The right to a useful and remunerative job in the industries job or shops or farms or mines of the nation;
- II. The right to earn enough to provide adequate food and clothing and recreation;
- III. The right of every farmer to raise and sell his products at a return which will give him and his family a decent living;
- IV. The right of every businessman, large or small, to trade in an atmosphere of freedom from unfair competition and domination by monopolies at home or abroad;
- V. The right of every family to a decent home;
- VI. The right to adequate medical care and the opportunity to achieve and enjoy good health;

- VII. The right to adequate protection from the economic fears of old age, sickness, accident, and unemployment;
- VIII. The right to a good education.

This is what FDR wanted to be added to Constitution of United States. But he never succeeded to get it incorporate and later no other Presidents tried to do it.

Fundamental Rights and Directive Principles of State Policy

In the 1858 some small Indian princely States revolt against the Company’s rule. Then the King and Queen of Great Britain took the control from the East India Company and passed Regulation Acts. They were passed by the British Government time to time and were Administration centered and less of general welfare. The Constitution of India contains a big part of Regulating Act of India, 1935. The Indian Constitution is formed with a huge research of existing Constitution of various countries of that time.

The Constitution of India is divided into XXIV parts with 395 numbered Articles. Under part III of the Constitution the Fundamental Rights are secured and under part IV the Directive Principle of State Policy are provided. With the addition of these two parts to the Constitution it became welfare centric from administrative.

Part III provides basic human rights as fundamental rights and puts obligation on the State to secure them for citizens and non-citizens as the case may be. Initially when the Constitution was drafted and presented there were 21 Articles in part III, but after the Constituent Assembly Debates and adoption of the Constitution 27 Articles in part III including definitions of State and Law. The



rights that part III contains are of civil and political nature. Under part III the rights secured are; right to equality, right to freedom, right against exploitation, right to freedom of religion, cultural and educational rights, rights to constitutional remedies. These rights are the promise to the people of India that they will have these all protection and the State shall take guarantee to provide these rights to them. When constitution was formed these fundamental rights were not widely interpreted but with the passes of time they were interpreted in possible widest manner. In various judgment of the Supreme Court it was again and again held that these fundamental rights are not only matter of linguistic interpretation only they are subject of juristic interpretation. In the most famous and revolutionary judgment of **Kesvananda Bharti v. State of Kerala**⁴, it held rightly held that the Constitution of India should be interpreted in widest possible manner.

The framers of the Constitution of India borrowed the idea directive principles from the Irish Constitution. When the Constitution was drafted there were 13 Articles and today there are 20 Articles in the part VI. The DPSP are the main objectives of the State to achieve. These principles guides the Government as well as provides a blueprint for welfare of the people of the nation. At one time it was thought that State was mainly concerned with the maintenance of law and order and the protection of life, liberty and property of the subject. Such a restrictive role of the State is no longer a valid concept. Today we are living in an era of a welfare State which has to promote the prosperity and well being of the people. The Directive Principle of State Policy lay down certain

economic and social policies to be pursued by the various governments in India. They impose certain obligations on the State to take positive action in certain direction in order to promote the welfare of the people and achieve economic democracy.

Since we know that the concept of the welfare state is largely discussed in the Directive Principles and Fundamental Rights of Constitution of India. The phrase “economic and social justice” under Art.38, which would promote the welfare of people, had acquired a meaning, which is conveniently described by the phrase ‘welfare state’. As defined in Collins English Dictionary, the definition of Welfare State as follows: “a system in which the government undertakes the responsibility for providing for the social and economic security of its population, usually through unemployment insurance, old age pensions and other social security measures.”

In his speech in the Constituent Assembly Dr. B. R. Ambedkar repeatedly said that the main object of Directive Principle of State Policy are to set standards before the legislature and the executive, the and the other authorities, by which the success and failure can be achieved. These are of social, economic and political nature. In other words they are positive Human Rights. But the Fundamental Rights and Directive Principles of State Policy are different in the Constitution of India. Where Fundamental Rights are justiciable and Directive Principle are non-justiciable. It means if some person infringes others Right to freedom of free speech under Article 19(1)(a), the person may file a suit against the violation of his fundamental right and it will be the duty of

⁴ (1973) 4 SCC 225



the State to protect that individuals interest but if some right provided under Directive Principle of State Policy for instance, Right to work under Article 41, is not given to an unemployed person, he can not sue the State for it. Directive Principles are those rights, which the State needs to provide to all but due to some economic reason the State is not willing to do so. In landmark judgment of **Kesvananda Bharti**, the Supreme Court has said that “ fundamental rights and directive principles aim at the same goal of bringing about a social revolution and establishment of a welfare State and they can be interpreted and applied together. They are supplementary and complimentary to each other. It can well be said that the directive principles prescribed the goal to be attained and the fundamental rights lay down the means by which that goal it to be achieved.” The Supreme Court in above judgment explained that directive principles are interconnected, that they are related to each other. In the cases of **State of Madras v. Champakam Dorairajan**⁵ and **In re Kerala Education Bill, 1957**, the words use in Art. 37 were not analyzed and the fundamental rights prevailed over the directive principles. But from **F. N. Balsara v. State of Bombay**⁶, things changed and the Supreme Court said that the directive principles were in the nature of an instrument of instruction, which both the legislature and the executive were expected to respect and to follow. In later period, whether it was **Minerva Mill’s case**⁷ or **Randhir Singh v. Union of India**⁸ or **Rural Litigation and Entitlement Kendra, Dehradun v. State of Uttar Pradesh**⁹, the Courts while delivering the judgments started

taking cognizance of Directive Principles. Directive principles of State Policy provide guidance for interpretation of Fundamental Rights as also the statutory rights. In a number of decisions the Supreme Court has given many Directive Principles of State Policy, the status of Fundamental rights. In **Unnikrishnan v. State of A.P.**¹⁰ (1993) 1SCC 645, the directive principle contained in Article 45 has been raised to the status of fundamental rights. It has been that the children from the age of 6 year to 14 years have fundamental right to free and compulsory education. Similarly, ‘equal pay fro equal work’ has been held to be a fundamental right in **Randhir Singh v. Union of India**¹¹, AIR 1982 SC 879, and therefore enforceable in Courts. In **M.H. Hoslot v. State of Maharastra**¹², it has been held that legal aid and speedy trial are fundamental rights under Article 21 available to all prisoners and can be enforced. If we look towards the Judgments of the Courts regarding Article 21 of the Constitution, the number of it has become so large that all the human rights which necessary for living of a person and all the duties of the State to make a better life of its citizens are embodied in it.

Conclusive Remarks

The idea of adding of the Directive Principles to the Constitution of India was to provide the State a path to walk towards the welfare State. But due to weak economy and backward technology the idea of being a welfare State is still waiting. Although, now it is not justified to say that India is a weak Economy and backward in technology, today we have sufficient means to proceed towards

⁵ AIR 1951 SC 226

⁶ AIR 1951 SC 318

⁷ AIR 1980 SC 1789

⁸ AIR 1982 SC 879

⁹ AIR 1985 SC 652

¹⁰ AIR 1993 SC 217

¹¹ AIR 1982 SC 879

¹² AIR 1978 SC 1548



a Welfare State. Now the time has come to achieve the dream of our Constitution framers and our father who built this great nation. This is the right time to move towards the revolution to change parameters and imply the directive principles as mandatory rights. The amendment in the Constitution is required to bring the directive principles within the judiciary force.

However, the Judiciary has started the revolution of making the directive principles enforceable. Now it is our duty to give enough support to the judiciary. Once this dream was seen by the great American President but unfortunately it was not succeed. Today we are standing at such time and we can make our dreams to come true, our dream of being a great nation, our dream of having higher standard of living, our dream of being prosperous. This revolution may lead to fulfill our dreams and it will also be the best tribute to our Constitution maker and to those who built our nation.

