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Distributive Justice in India's Constitutional Framework: Analyzing Articles 38, 39, and 46 through the Lens of Rawls' Theory of Justice

Dr. Gunde Gowda

Associate Professor, Department of Political Science, University College of Arts, Tumkur University, Tumkur,
Karnataka, India

ABSTRACT: The Constitution of India it was not just a law book of rules that could be utilized to govern its people but it was a tool of enormous social transformation. Central to it is the contradiction between safeguarding individual freedoms and the need to have social justice and enjoy the freedom of individuals. A theory of Justice (1971) by American political philosopher John Rawls decades later was an attempt at solving this same tension with a solution he termed Justice as Fairness. This paper gives a comparative jurisprudential inquiry and traces, as an exemplar of celebrated and renowned difference principle, proposed by Rawls, which characterizes inequalities as being justified only when they are beneficial to the least fortunate the same concept, We have adopted in our constitution In the in Part IV of the Indian Constitution. In particular, it examines Articles 38, 39 and 46 of the Directive Principles of State Policy (DPSP). The paper contends that although Part III of the Fundamental Rights has been adopted to ensure reflection of paragraph of the first principle of Liberty as propounded by Rawls, the Directives Principles serves as the road in the second principle of Distributive Justice as propounded by Rawls. The study, based on the requirements of Article 38 of a fair social order, article 39 of avoiding wealth concentration, and Article 46 of making particular reference to the weaker sections, shows that the Indian Constitution foresaw the conceptual requirement of the Rawlsian requirement of Redress. "Logically deduces Supreme Court decisions, the article argues that Indian democracy thrives on the synthesis of liberty and distributive justice, treating them as twin pillars of an egalitarian society. In this context, affirmative action for Scheduled Castes and Scheduled Tribes serves as a real-world manifestation of the 'least advantaged' group described in Rawlsian theory."

KEYWORDS: Distributive Justice, article 39, article 46, distribution justice, John Rawls, directive principles, Difference Principle, social welfare, Indian constitution, basic structure.

I. INTRODUCTION

Most importantly This is destined to be followed by the preamble of the Indian Constitution graciously assuring "Justice: Social, Economic and Political." It is no accident that this ordering should be in nature It is important. Political justice (one man, one vote) was useless without social and economic justice (one man, one value) to the framers of the Constitution, most of whom were Protected individual rights as like this In this sense, Indian constitution Supreme. This imaged social Revolution was aimed at trying to change a hierarchical and caste-ridden and poor colony into a modern egalitarian republic In India. John Rawls released a Theory of Justice, 20 years after the birth of the Indian republic India becoming a world largest Democracy, and possibly the most important work of the 20 th century political philosophy. Rawls attempted to delineate justice not as the greatest good to the greatest number (Utilitarianism), which might be theoretically true to vindicate slavery as long as the majority was pleased with it, but as Fairness. His ideal society was envisioned in which the institutions are organized to defend the weak This is very important to understand. The gap that this research article attempts to fill is that of what the abstractions of Rawls are supposed to be and the actual text of the Indian constitutions in terms of our permitted Affirmative action and reservation policies. It assumes that the Workings of the Rawlsian distributive justice And the **Directive Principles of State Policy (DPSP) In our constitution**, which are Articles 38, 39, and 46 these were at the at most, non-justiciable guidelines to the state, the judicial activism has changed it to the conscience of the Constitution. The Excursions of these articles at the Rawlsian level allow us to have a more microscopic look at the moral merit of the Indian welfare policies not as a charity or populism but as the inherent needs of a just political system, this view is very essential in contemporary situation in India.

Theoretical Framework: Architecture of Fairness and John Rawls. In order to work out the analysis of the Indian Constitution, we need to first reduce the main principles of the theory provided by Rawls which refer to distributive justice This is very important.

The “Original Position and the Veil of Ignorance of Rawls convey us to a thought experiment This concept, it is the most fundamental Concept of the Rawls theory: the “Original Position.” Suppose that a collection of men got together to write a constitution. But they work under a Vail of Ignorance This is one of the most significant idea of The article Background. They also do not have an idea whether they will be born as a rich or a poor Brahmin or a Dalit as healthy or disabled as talented or average Much and sugar, it’s need to understand. Rawls states that risk-averse would be what rational individuals in this situation should be. Frightened as they were at risk of ending up at the bottom, they would accept two principles:

The Liberty Principle: Massive equal freedom Its need to re look.

The Second Principle: Distributive justice: Equity of Opportunity: There should be openness in offices Which are under the government.

The Difference Principle: The distribution of social and economic inequalities should be done in a way that they benefit the least endowed people in the society as much as possible This is very important. The Difference Principle as the Crux The difference principle is the center of this discussion. Rawls acknowledges that there may be stagnation when absolute equality (all people earn the same wage) takes place. Incentives are needed and very important. Nevertheless, he makes a strict requirement of these incentives. It is only when the disparity in these cases motivates the doctor to offer services which have the end effect of benefitting the janitor that a doctor can earn more than a janitor We need to understand. When the poor remain poor and the rich continue to possess more and more money This is very dangerous for our Democracy, this system is unfair. The justification to have a ceiling of wealth is in that it elevates the floor of poverty This is the dangerous sense. According to Primary Goods Rawls, the state has to allocate the rights, freedoms, chances, revenues, riches as well as the social foundations of self-respect. The state also has its distributive manifesto on the ways of distributing these primary goods in the Indian setting, called the DPSPs.

The Indian Situation: The Directive Principles as the Conscience.

The Directive Principles are given in part IV of the Indian Constitution (Articles 36-51). At the time they were written, they were novel We need to analyse this. In contrast to Fundamental Rights (Part III) that could be enforced in the court, the DPSPs were "non-justiciable DPSP are very essential for the all the states. Dr. Ambedkar referred to them as Instruments of Instructions, which were to guide the legislature Every one of us to understand this. The interpretation however has changed in more than 75 years. *Minerva Mills v.*, the Supreme Court This is unique case. Union of India decided that the Indian Constitution is built on the basis of the balance that exists between Part III and Part IV. One of them is the political liberty of the individual (Rawls First Principle), and the other one is the economical safety of the society (Rawls Second Principle). It is now time to put this theory to the test with reference to the specific articles This is what we need to understand.

II. ARTICLE 38: THE CALL TO A WELFARE STATE

The Text: Article 38(1): The State shall endeavor to serve the welfare of the people, by securing and protecting, as far as it may be in its power, a social order, in which justice, social, economic and political, shall in-form all the institutions of the national life This is one of the most important article in the Indian Constitution.

Article 38(2): The State shall, particularly, strive to diminish the inequalities in the incomes, and tend actively, as far as may be in its power, to eliminate inequalities in the status, in the facilities and opportunities Its need Implement properly.

The DPSP Article 38 which is the DPSP Basic Structure is the Rawlsian Analysis Article

38. It is directly related to the Basic Structure of Society which is developed by Rawls. Rawls held that justice is relevant initially to the basic structure how major social institutions allocate the fundamental rights and duties In this sense Reread its very essential. By Article 38(1) referring to a social order, the state is being required to build a Rawlsian basic structure. The laws must not merely be there but the order must be just. The logic of Rawls has been practically paraphrased in Article 38(2), which was introduced through the fourth amendment in 1978 All the Indians Should be aware of this.

Minimize inequalities in income: This is not mean that inequality is absolutely nonexistent (which Rawls does not require as well). It says "minimize." This is in agreement with the Difference Principles inequalities should be permissible but they should be kept in check to ensure that they do not damage the social fabric This is the core idea of Raul's theory of justice. "Do away with status differences, facilities and opportunities: this relates to Fair Equality of Opportunity discussed by Rawls Former people should be aware of this. A child living in the village in Bihar (facility inequality) cannot compete with a child in South Mumbai. Article 38 requires the state to equalize this level playing field. What this means in a Rawlsian sense is that Article 38 is the commitment that the constitution has as that which cannot be called Libertarianism (when it is only concentrated on liberty) and instead as what can be called Liberal Egalitarianism (when it is concerned with not just liberty but with welfare) It is very essential To understand. It understands that the absence of a social minimum makes liberty just a mere form, but not a form of life. In this article, Singer introduces the concept of economics of the difference principle, which he advocates to interpret political economy today (Singer, 2011) We should be. aware about All these consequences.

Article 39: The Economics of the Difference Principle. The Text: Article39: The State shall... pursue its policy in the securing(b) whereby the material resources of the community are so distributed as that they are well-servient to the common good;(c) w Should hereby the functioning of the economic system does not lead to the concentration of wealth and means of production to the common harm; The Rawlsian Analysis: in case Article 38 is the aim, Article 39 offers the economic approach These are the all the technical things we need to understand properly. It is the most radical of all the Indian Constitutional features, and it is perhaps the most powerful demonstration of the Difference Principle in any democratic constitution anywhere on the planet.

The Common Good vs. Classical capitalism Invisible hand Classical capitalism (Adam Smith) is based on the idea of individual greed resulting in collective good. Rawls does not support this laissez-faire practice. He supports Property-Owning Democracy or Liberal Socialism in which wealth was prohibited to accumulate to such a degree as to curtail the political freedom. Article 39(b) specially makes inferior the "ownership" to the common good Until today, the common people of India Doesn't understand the situation of this. In a case law State of Tamil Nadu v. The Supreme Court interpreted the material resources to encompass it all (Abu Kavur Bai, 1984); land, electricity, transport services, etc. The Court concluded that these resources need to be used in the service of the community. This reflects upon the opinion of Rawls that natural gifts and resources are somehow a common good Common good is very essential for the common people. The fortunate individual sitting on a gold mine (or with high IQ) should not have a moral claim to everything, he or she should share the good fortune with society on whom he/she makes his/her wealth possible.

Illegality of Concentration (The Anti-Oligarchy Clause) Article 39(c) prohibits the concentration of wealth at the common disadvantage. It is the opposite version of the Difference Principle.

Rawls: Inequality is unfair when it makes the poor.

Article 39 (c): It is outlawed in the case of concentration to the common detriment. This has led to the nationalization of banks, the abolition of the feudal land system (Zamindari) and harsh regulation of corporations in the Indian situation This is very Important to understand. An analysis by Rawlsian of Article 39(c) indicates that the Indian state has a constitutional obligation of intervening in the market. When a monopoly dominates and renders the rich richer even at the expense of the poor, the state has to end it Commonly, we are not aware about this. This confirms the fact that the Indian Constitution is not an apolitical one as far as economics is concerned. It is skewed towards a distributive model. It claims that a compromise cannot be made between social equity and economic efficiency. Article 46: Corrective Justice and the Least Advantaged. The Text: Article 46: In the perception of this article The State shall support with special attention the education and economic well-being of the weaker sections of the people, and, especially, of the Scheduled Castes and the Scheduled Tribes, and shall guard them against social injustice and every kind of exploitation Indians should be understood. The Article 46 of the Rawlsian Analysis is the particular application of a Difference Principle to the Indian caste reality Most important thing This is this is. According to the theory of Rawls, the standpoint of the justice is the situation of the least advantaged representative individual. You find out how a law concerns itself with the destitute, whether it is fair or not. The most disadvantaged groups in India are traditionally characterized by caste Very essential to understand properly.

The Scheduled Castes (Dalits) and Scheduled Tribes (Adivasis) had not only to endure poverty but also to experience not only social injustice but as well exploitation (untouchability, exclusion).

The Principle of Redress Rawls talks about the **Principle of Redress:** inequalities that were not deserved (such as being born in an inferior caste) must be redressed Very essential to understand. These populations would be treated

favorably since they are the products of inequalities of birth, which is not merited. In article 46, it is stated that it is encouraged with special care Indians should be aware about it. Such is the Affirmative Action constitutional ground (Reservation). It has been common to argue that Reservation represents a violation of the principle of Equality (Article 14). It is however defended by a Rawlsian interpretation of Article 46 Reservation is very essential in Indian context. Formal Equality (treating all people equally) is unjust in case of differences in initial lines.

In Fairness according to Rawlsian, we must also differ among people so that we can equalize them. When a state of India helps SC/STs with scholarships, reserved seats in parliament or grants of land as per Article 46, it is exercising the mandate of Fair Equality of Opportunity of Rawlsian mandate This is very interconnected. It is attempting to disallow the impacts of the social lottery that is caste. More so, the sentence, protect them against social injustice, recognizes that distribution of wealth is inadequate, one should protect social foundations of self-respect (which is a primary good in the opinion of Rawls) Self-respect is very essential for the common peoples. The Prevention of atrocities act is a law that reflects this mandate in Article 46 of the need to ensure the protectors of the Article 46 is the Sword of the State, to protect the dignity of the least advantaged.

The Judicial Bridge: Resolving the Tension. Indian law has been mostly integrated with the Rawlsian theory by the Judiciary. Fundamental Rights and Directive Principles have a cheered history. Knowledge: In Early Era, Courts possessed Rights over Principles (Champak am Durairaj case) Rates are very important for everyone In this nation. This was a Libertarian interpretation. Middle Era: Principle > Rights (Emergency Era) by Parliament. This was a Utilitarian interpretation. Modern Period: The doctrine of Well-constructed Buildings. Justice Chandrachud said in Minerva Mills: Justice fundamental rights are not themselves but are the conduit to a purpose. These are all the important things Understand

Part IV: specifies the end. This is an incisive Rawlsian statement. It does not deny skid but underlines that the Teleology (the Goal) is Distributive Justice. The Supreme Court has inserted Article 39 and 46 in Article 21 (Right to Life). The court has decided that the right to life incorporates the right to Livelihood (Olga Tellis case). Thus, they have merged the First Principle (Liberty) with the Second Principle (Economics). The freedom to live of Indian people is impossible in case they have no money to eat. The judicial system has successfully courted that the Difference Principle is a key element of the Right to Life Right to life feels very essential for Who are here in the democracy.

Critique and Synthesis The fit is high but the Indian framework diverges with Rawls in one important dimension This is very important, which is Individualism vs. Community. Rawls is a liberal individualist. His theory is concentrating on individual rights. The Articles 46 and 38 tend to address the groups (Weaker Sections, Classes).

Dr. Ambedkar was aware that group-based injustice in India was on caste According to the Baba Saheb Ambedkar It's very true. Thus, group-based justice is also necessary. Nevertheless, it does not destroy the Rawlsian connection, but it alters it. It is possible to consider the "caste group" the "representative person" of the Rawlsian calculus. Besides, the exercise of Article 38, 39, and 46 is unequal All the Indians must and should understand these things. Although they are Rawlsian in terms of laws, the laws are not always passed by the reality.

The concentration of wealth (Article 39c) has risen during the post-liberalization period (after 1991). The emergence of billionaire raj and the agrarian distress, indicate that the state has shifted off the Difference Principal Indians should be aware about all the circumstances Which are very related to these things. The processing of the constitution is Rawlsian, whereas the political economy has become discontinuous.

The Indian Constitution, which was written under the circumstances of partition and poverty is a truly farsighted document. The founding fathers in the Articles 38, 39 and 46 encoded a theory of justice that was to be formalized by John Rawls to the Western world.

- **Article 38** specifies the Basic Structure of a welfare state.
- **In Article 39** is the requirement of the Difference Principle which clutches that economic systems must not abandon the poor.
- **Article 46** decodes the Fair Equality of Opportunity into redressing historical injustices on the disadvantaged.

It is by the light of this that the Indian Constitution is not just a manual to government, but a covenant of Distributive Justice. It also denies the cold theory of survival of the fittest. In its place it adopts the invigorating, sometimes hard logic of Rawlsian equity: in that a society is a common enterprise in shared benefit, whereby the robustness of the chain can only be gauged by its weakest point The common people must and should understand these situations. Whilst it is true

that India is going through the 21st century whether she will be able to keep this Rawlsian promise to provide that the glittering growth of the nation will be distributed, as a question of right, with the poorest citizen in the farthest village.

III. CONCLUSION

The Theory of justice Directly, indirectly in fact, on the constitution's values because Before Idea Dr Babasaheb Ambedkar Adopted all the things Which are a very relevant for this? Teri. Because Dr Babasaheb Ambedkar. We got a avoid a famous constitution. In that constitution They are witnessing to have fundamental rights, directive principle of the state policies, all the things. On comparing the theory of justice by John Rawls and the Indian constitution, there is a deep philosophical overlap commonly found between western political liberalism and Indian constitutional morality. Indian experiment shows that the abstract notions of Justice as Fairness are not just the products of theoretical speculation, but that they form the warp and woof of governance of the state in the form of the Directive Principles of State Policy the Direct Principal sub state policies are very essential for the state to rule on the peoples who are living in the country but needs to implement properly. Rawlsian distributive justice works with the help of Article 38, 39, and 46 in a democratic context and works very well in Indian context. The requirement in Article 38 of a just social order is analogous to the requirement of a just Basic Structure of society in Rawls, which is the place of the charity into structural equity. By making the accumulation of wealth by the individual secondary to the common good, **Articles 39(b) and (c)** entrench the Difference Principle, and cause economic growth to be an acceptable practice only when it supports the disadvantaged. Moreover, the particular attention of Article 46 to the weaker sections (Scheduled Castes and Tribes) to the Redress principle of Fair Equality as Advocated by Rawls, in that the real achievement of Fair Equality, as Rawls described it, needs explicit correction through affirmative action redressing the historical social lottery of caste This is very important to understand. In addition, this paper establishes the fact that the Indian Constitution opposes the dualism between the individual freedom and the social good. Rather, it employs a balanced policy in which Fundamental Rights (Liberty) and the Directive Principles (Justice) and are mutually dependent. The Social Revolution which Dr. Ambedkar envisaged is a viable implementation of the Rawlsian social contract lasting pledge to the society in which the status of the least privileged is the main yardstick of legitimacy of the state. To the extent the 21 st century is treading its steps in Asia, the timeless value of these Articles is that they need to remind that a republic is not only the freedom it provides, but also the justice it offers.

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