



The Indian Welfare State: From Constitutional Idealism to Judicial Realism

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Part I: Foundational Paradigms: The Welfare State and the Laissez-Faire State

The ideological landscape of modern governance is largely defined by the tension between two opposing philosophies of the state's role in society: the welfare state and the laissez-faire state. Understanding these paradigms is essential to contextualize the unique path India has forged since its independence.

The Philosophy of Intervention: Core Tenets of the Welfare State

A welfare state is a system of governance where the state plays a fundamental and active role in the protection and promotion of the economic and social well-being of its citizens.¹ This model is not merely about providing charity but is rooted in a set of core principles. These include ensuring **equality of opportunity**, facilitating an **equitable distribution of wealth**, and accepting **public responsibility** for individuals who are unable to avail themselves of the minimal provisions for a good life.¹ It is a model built on social solidarity, where the financing of services is a collective responsibility shared across the population through taxation.⁵

The primary objective of a welfare state is to guarantee that every citizen has an equal opportunity to lead a dignified life.⁶ It seeks to insure society against the inherent risks of human existence—unemployment, sickness, disability, and old age—by ensuring access to fundamental necessities such as food, shelter, and medical care.⁷ By doing so, it aims to reduce poverty, foster social cohesion, and mitigate the extremes of wealth and poverty that can destabilize a society.⁴

To achieve these objectives, the government in a welfare state adopts a proactive and interventionist role. Its functions are multifaceted and extend deep into the socio-economic fabric of the nation. These functions typically include:

- **Macroeconomic Management:** The state actively manages the national economy through fiscal and monetary policies to minimize unemployment, control inflation, and encourage

sustainable growth.¹

- **Provision of Social Services:** A key feature is the universal or near-universal provision of essential public goods and services. This includes public healthcare systems, state-funded education, and social housing, which are often provided at little to no direct cost to the user.¹
- **Social Insurance:** The state establishes comprehensive social insurance programs, such as Social Security in the United States or National Insurance in the United Kingdom. These are typically funded by compulsory contributions from employers and employees and provide a safety net during periods of unemployment, illness, or retirement.¹
- **Redistribution of Wealth:** The tax system is a crucial tool. Progressive taxation, where higher earners contribute a larger proportion of their income, is used not merely to raise revenue but as a mechanism for income redistribution to fund social programs and achieve greater economic justice.¹ In its most thoroughgoing form, as seen in some Scandinavian countries, the welfare state provides support “from the cradle to the grave”.¹

The Philosophy of Non-Intervention: Core Tenets of the Laissez-Faire State

In stark opposition to the welfare state stands the laissez-faire state. The term, French for “let them do” or “leave alone,” encapsulates an economic philosophy that advocates for minimal government intervention in economic affairs.¹⁰ Its ideology is grounded in the principles of classical liberalism, which posit the individual as the fundamental unit of society, possessing a natural right to freedom. It operates on the belief that the natural order of the market is a harmonious and self-regulating system.¹¹ The core tenets of this model are the sanctity of private property rights, the promotion of free and unfettered competition, and the encouragement of free trade without tariffs or significant regulation.¹⁰

The primary objective of the laissez-faire state is to create an environment where a free and competitive market can operate without interference. The guiding belief, famously articulated by Adam Smith, is that an “invisible hand” will guide the market, with the forces of supply and demand efficiently allocating resources and producing the best outcomes for society as a whole.¹⁴ Proponents argue that individual self-interest, when allowed to operate freely, paradoxically leads to collective benefit by fostering innovation, driving economic growth, and maximizing

efficiency.¹¹

Consequently, the role of government in a laissez-faire system is severely circumscribed. It is often described as a “passive policeman” or a “night-watchman state”.¹⁰ Its legitimate functions are limited to the bare essentials required for a market to function:

- Protecting life, liberty, and private property.
- Enforcing contracts between private parties.
- Maintaining law and order and providing for national defense.¹⁰

The state is expected to refrain from economic regulation, price controls, subsidies, protectionist tariffs, and the provision of social services, leaving these matters to the private sector and individual initiative.

A Comparative Analysis with Sectoral Examples

The divergence between the welfare state and the laissez-faire state represents a fundamental disagreement about the nature of freedom, the causes of poverty, and the proper relationship between the individual, the market, and the state. The welfare state emerged historically in the 20th century as a direct response to the perceived failures of the laissez-faire model, which, during the Industrial Revolution of the 18th and 19th centuries, was seen to have produced vast inequality, worker exploitation, and “human misery”.¹

The welfare state can be seen as a middle ground, an accommodation of classical liberal values like individual rights and private property to the harsh realities of corporate capitalism.⁸ It champions “positive liberty”—the freedom *to* achieve one’s potential, which requires state support—whereas the laissez-faire model is built on “negative liberty”—the freedom *from* external interference.²⁰ A crucial distinction lies in their diagnosis of poverty: the welfare state tends to view poverty as a result of systemic or institutional failure, creating a public duty to assist the victims, while the laissez-faire tradition is more inclined to see it as a matter of personal responsibility.⁸

A deeper analysis, however, reveals that this opposition is not absolute. The fundamental conflict

is not necessarily over the ultimate goal of a prosperous society but over the most effective mechanism to achieve it. Even classical laissez-faire proponents like the 19th-century economist J.R. McCulloch argued that the “advancement of public prosperity and happiness is [government’s] end,” with freedom being the means to that end.²⁰ This reframes the debate from a simple clash of ideologies to a more complex discussion about institutional efficacy. The laissez-faire model places its trust in the self-regulating market to generate collective well-being, while the welfare state model argues that conscious state intervention is essential to correct market failures and ensure that prosperity is shared equitably.

Furthermore, these pure models are largely theoretical constructs. In practice, no modern developed nation operates as a pure laissez-faire or a complete welfare state. Most are hybrid systems occupying different points on a spectrum. The United States, often seen as more market- oriented, has significant welfare programs like Social Security, Medicare for the elderly, and the Supplemental Nutrition Assistance Program (SNAP).¹ Conversely, the comprehensive welfare states of Scandinavia operate within robust capitalist market economies and frequently utilize public-private partnerships to deliver services.³ The real-world political debate, therefore, is not about a binary choice but about determining the appropriate degree and nature of the mix between state intervention and market freedom.

Feature	Welfare State	Laissez-Faire State
Core Philosophy	The state has a public responsibility to ensure the social and economic well-being of all citizens, based on principles of equality, equity, and collective responsibility. ¹	The individual is the basic unit of society with a natural right to freedom; the market is a self-regulating system best left alone. ¹¹

Role of Government	Proactive and interventionist: manages the economy, provides universal social services, redistributes wealth, and creates a social safety net. ⁸	Passive “night-watchman”: limited to protecting property, enforcing contracts, and maintaining law and order. No economic or social intervention. ¹⁵
View on Poverty	A result of systemic or institutional failure that the state has a duty to correct. ⁸	Primarily a matter of individual failure or lack of initiative; not the state’s responsibility to alleviate. ¹⁴
Key Economic Tools	Progressive taxation, social insurance contributions, macroeconomic management, public spending on health and education. ¹	Minimal taxation, free trade, deregulation, reliance on the “invisible hand” of supply and demand. ¹⁰
Social Safety Net	Comprehensive and universal, providing support “from the cradle to the grave” through pensions, unemployment benefits, and public assistance. ¹	Minimal to non-existent; reliance on private charity, family support, and individual savings. ¹⁴
Healthcare Model	Example: UK’s NHS. Universal, tax-funded system providing care based	Example: USA’s Mixed System. Primarily based on private insurance, often tied

	on clinical need, not ability to pay. Lower administrative costs but potential for longer wait times. ²³	to employment. Fosters innovation but has high costs and leaves many uninsured or underinsured. ²³
Education Model	Example: Finland. Publicly funded system emphasizing equity, holistic development, and highly qualified teachers. No tuition fees and strong student support services. ²⁶	Example: USA's Mixed System. Mix of public, private, and charter schools with significant local variation in funding and quality. Heavy reliance on standardized testing for accountability. ²⁶
Historical Proponents	William Beveridge (UK), Franklin D. Roosevelt (US), Social Democratic parties in Europe. ¹	Physiocrats (France), Adam Smith, J.R. McCulloch, 19th-century European liberals. ¹⁴

Part II: The Genesis of the Welfare Ideal in India

The adoption of a welfare state model in India was not a mere imitation of Western trends but the culmination of a long historical evolution, drawing from ancient indigenous traditions, the reaction to colonial policies, and the diverse ideological currents of the freedom struggle.

Pre-Colonial Roots and Colonial Disruption

The concept of the state's responsibility for the welfare of its people has deep roots in Indian political thought. Ancient texts like Kautilya's *Arthashastra* and the *Dharmasutras* articulated the principle of *rajdharma*, the sacred duty of the ruler to ensure the well-being (*yogakshema*) of all

subjects.²⁹ This was a comprehensive vision that included practical measures such as famine relief, the construction of public works like reservoirs and roads, and special care for the vulnerable, including the elderly and orphans.²⁹ The Mauryan Emperor Ashoka, in the 3rd century BCE, is often cited as an early proponent of a state actively promoting public welfare.³ Traditional village economies also had their own safety nets, such as the *jajmani* system, which, despite being hierarchical, provided a measure of subsistence security through reciprocal obligations.²⁹

The arrival of the British and the imposition of colonial rule marked a fundamental disruption of these traditional welfare mechanisms. The British Raj operated on a philosophy of *laissez-faire*, consciously adopting a policy of minimal intervention in social and economic matters, which it deemed the domain of family, caste, and religious institutions.³¹ The colonial state's primary objective was not comprehensive public welfare but the maintenance of law and order to ensure the stability required for economic extraction.²⁹ Interventions were, therefore, minimal and reactive, such as the Famine Codes of the 1880s, designed to prevent catastrophic events that could threaten imperial control rather than to build a proactive welfare system.²⁹

The Awakening of Social Conscience

The 19th century witnessed the rise of powerful socio-religious reform movements that challenged regressive social practices and laid the ideological foundation for a modern, welfare-oriented Indian state. These movements fostered a new national consciousness that inextricably linked social reform with the struggle for political freedom.³²

- The **Brahmo Samaj**, founded by Raja Ram Mohan Roy in 1828, campaigned vigorously against social evils such as *sati* (widow immolation), child marriage, polygamy, and the rigidities of the caste system. It championed women's rights, including education and widow remarriage, and sought to build a society based on reason and monotheism.³³
- The **Arya Samaj**, established by Swami Dayanand Saraswati in 1875, launched a crusade for social equality, the removal of untouchability, and the promotion of female education. Its call to "Go back to the Vedas" was an attempt to create a modern Hindu identity free from what it saw as later corruptions, advocating for a casteless society and providing social services

through a network of schools and colleges.³⁴

Alongside these social movements, the first stirrings of labor legislation emerged. However, the initial impetus for these laws was often paradoxical. Early statutes like the Factories Act of 1881 were not born from a benevolent concern for Indian workers. Instead, they were frequently the result of intense lobbying by British manufacturers in Lancashire and Birmingham, who felt their industries were threatened by the competitive advantage of cheap, unregulated labor in Indian mills.³⁰ By imposing regulations that would raise labor costs in India, they sought to protect their own economic interests. The welfare benefits for Indian workers were an incidental, rather than intentional, outcome of imperial economic policy. It was only later, under sustained pressure from the growing nationalist movement and early trade union leaders like N.M. Lokhande and N.M. Joshi, that the colonial government reluctantly enacted more meaningful worker protections, such as the Workmen's Compensation Act of 1923 and the Indian Trade Unions Act of 1926.³⁰

The Architects' Visions: Competing and Converging Ideals

As India moved towards independence, the leaders of the nationalist movement articulated distinct, and at times conflicting, visions for the future Indian state.

Jawaharlal Nehru's Democratic Socialism: As India's first Prime Minister, Jawaharlal Nehru was the principal architect of its welfare state. Deeply influenced by Fabian socialism and impressed by the Soviet Union's five-year plans, he championed a model of state-led, planned economic development.⁴⁰ His vision was for a "welfare state" that would be a unique blend of capitalist enterprise and socialist direction. He believed that only a strong, interventionist state could tackle India's monumental challenges of poverty, inequality, and industrial backwardness. For Nehru, the Constitution was not merely a political document but a "roadmap for creating a socialist democratic society," and state power was the essential tool to achieve social and economic justice for all.⁴⁰

Mahatma Gandhi's Sarvodaya: Mahatma Gandhi offered a radically different vision. His ideal was not a powerful centralized state but a decentralized society of self-sufficient, self-governing village republics. His philosophy of *Sarvodaya*, meaning "welfare of all," stood in contrast to the utilitarian goal of the "greatest good for the greatest number".⁴³ Gandhi was deeply suspicious of

the modern state, which he famously described as representing “violence in a concentrated and organised form”.⁴⁴ His ideal was a stateless society based on moral self-rule (*Swaraj*), non-violence (*Ahimsa*), and truth (*Satya*). Recognizing this as a distant ideal, his practical alternative was a “non-violent state” characterized by minimum coercion, radical decentralization of power to village *panchayats*, and the transfer of most state functions to voluntary community associations.⁴⁴

Dr. B.R. Ambedkar’s Imperative for Social and Economic Democracy: As the Chairman of the Drafting Committee, Dr. B.R. Ambedkar’s vision was paramount in shaping the final constitutional framework. His primary objective was to forge a state that could serve as a powerful instrument of social revolution. Drawing from his own experience of profound discrimination, he argued that political democracy would be a hollow shell without the foundation of social and economic democracy—a “way of life which recognizes liberty, equality and fraternity as the principles of life”.⁴⁶ He was a staunch advocate for using constitutional methods and a strong state apparatus to dismantle the oppressive caste hierarchy and secure fundamental human rights for the most depressed and marginalized sections of society.⁴⁶

The Constitution that India ultimately adopted reflects a decisive choice among these competing visions. While incorporating elements of Gandhian thought, particularly in its emphasis on village *panchayats*, the overarching structure is a testament to the ascendancy of the Nehru-Ambedkar model. The constitutional framework, especially in Part IV, creates and empowers a strong, centralized state and explicitly directs it to pursue social and economic welfare. This represents a conscious decision to favor a state-led path to modernization and social justice over a decentralized, community-led one—a choice that has defined India’s developmental trajectory ever since.

Part III: Forging the ‘Conscience of the Constitution’: The Constituent Assembly Debates

The Constituent Assembly of India, which met between 1946 and 1949, was the crucible in which the nation’s commitment to a welfare state was formally forged. The debates within the Assembly reveal a profound engagement with the meaning of justice and the role of the state in creating a new social order.

The Great Debate: Justiciable Rights vs. Directive Principles

The framers of the Constitution made a pivotal decision to divide rights into two categories: justiciable Fundamental Rights (Part III), which are enforceable by courts, and non-justiciable Directive Principles of State Policy (DPSP, Part IV).⁴⁹ Inspired by the Constitution of Ireland, the DPSPs were conceived as a set of guidelines or an “Instrument of Instructions” for all future governments.⁵⁰ They were not to be mere platitudes but were declared “fundamental in the governance of the country,” making it the duty of the State to apply them in making laws.⁴⁹ Their purpose was to lay down the path towards achieving social and economic democracy.

This distinction, particularly the non-enforceable nature of the DPSPs, became a major point of contention in the Assembly. Several members, most vocally the socialist economist Professor K.T. Shah, argued that without legal backing, these principles would be reduced to “pious wishes” or “New Year’s resolutions,” easily ignored by future governments.⁴⁹ They contended that these vital socio-economic goals should be made mandatory and enforceable.

In response, proponents of the distinction, including Dr. B.R. Ambedkar and M. Ananthasayanam Ayyangar, mounted a defense based on pragmatism. They argued that it was practically impossible for courts to enforce such positive obligations on the state. For instance, a court could not compel a government to provide a job for every citizen if the state lacked the resources to do so.⁴⁹ The enforcement mechanism for the Directives, they explained, was not to be legal but political. A government that failed to work towards these principles would have to answer to the people at the ballot box. Public opinion and the electoral process were to be the ultimate sanction.⁴⁹

This structure was, in essence, a sophisticated constitutional compromise. The framers were deeply committed to a social revolution, but they were also acutely aware that the nascent Indian state lacked the financial and administrative capacity to guarantee comprehensive socio-economic rights immediately. Making these rights justiciable would have risked bankrupting the state and overwhelming it with litigation. The DPSPs provided the solution: they enshrined the *goals* of the revolution as a constitutional duty without making them legally *enforceable* from day one. They were a promissory note from the founding generation to the future, making the state’s welfare obligations a matter of political and moral imperative.

Article	Core Principle	Stated Objective
Art. 38	Social, Economic, and Political Justice	To promote the welfare of the people by securing and protecting a social order in which justice—social, economic, and political—shall inform all institutions of national life. ¹⁹
Art. 39	Principles of Policy	To secure the right to an adequate means of livelihood, equal pay for equal work, equitable distribution of material resources, and prevention of the concentration of wealth. ¹⁹
Art. 39A	Equal Justice and Free Legal Aid	To ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities. ⁵¹
Art. 41	Right to Work, Education, and Public Assistance	To make effective provision for securing the right to work, to education, and to

		public assistance in cases of unemployment, old age, sickness, and disablement. ¹⁹
Art. 45	Early Childhood Care and Education	To provide early childhood care and education for all children until they complete the age of six years (as amended). ¹⁹
Art. 47	Duty of the State to Raise Nutrition Levels and Public Health	To raise the level of nutrition and the standard of living of its people and the improvement of public health, including the prohibition of intoxicating drinks and drugs. ⁵¹

Voices of the Assembly: Shaping India's Socio-Economic Charter

The debates were animated by the powerful voices of the framers, each contributing to the final shape of India's socio-economic charter.

Dr. B.R. Ambedkar consistently defended the Directive Principles as the very heart of the Constitution's social mission. He declared that it was the Assembly's explicit intention that these principles should form the "basis of all executive and legislative action" taken by any future government.⁵¹ His interventions on specific articles revealed a pragmatic vision for state-led welfare. He supported the promotion of cottage industries on an "individual or co-operative basis" to bolster rural economies, argued for compulsory education for all children up to the age of 14 as a prerequisite for abolishing child labor, and advocated for a uniform civil code as a means to foster national unity and gender justice.⁵²

Professor K.T. Shah was the Assembly's most persistent advocate for an explicitly socialist constitution. He famously moved an amendment to describe India in the very first article as a "Secular, Federal, Socialist Union of States".⁵³ For Shah, the term "socialist" was an assurance to the people that the state would guarantee equal justice and opportunity, and that the economy would be organized for the common good.⁵³ Although his amendments were ultimately defeated, his arguments compelled the Assembly to clarify its economic philosophy. The rejection of the word "socialist" in 1949 was a strategic choice. Dr. Ambedkar, in his reply, argued that the Constitution should not bind future generations to a single economic ideology; the people should remain free to choose their own path through democratic processes.⁵³ This decision favored the broader, more flexible language of "social and economic justice" over a rigid ideological label, allowing for the mixed-economy model that India subsequently adopted.

Jawaharlal Nehru's vision of a modern, planned economy was a powerful undercurrent throughout the debates. His iconic "Tryst with Destiny" speech on the eve of independence set the moral tone, defining the task ahead as "the ending of poverty and ignorance and disease and inequality of opportunity".⁵⁶ He consistently argued that political freedoms and individual liberties were meaningless for a starving person, thus providing the philosophical justification for the strong emphasis on socio-economic goals in the Directive Principles.⁴²

The concerns of rural India also found voice in the Assembly. Members like **Mahavir Tyagi** spoke passionately about the neglect of villages and the need for constitutional directives to promote cottage industries and make rural areas self-sufficient, echoing Gandhian ideals and ensuring they were not entirely eclipsed by the focus on industrialization.⁵²

The Preamble as a Gateway to a Just Order

The Preamble to the Constitution serves as its philosophical key. Its solemn resolve to secure for all citizens "**JUSTICE, social, economic and political**" is the foundational promise of the Indian welfare state.⁵⁸ While the specific term "socialist" was only added by the 42nd Amendment in 1976, the debates reveal that the spirit of social and economic justice was a powerful consensus among the framers from the very beginning.⁴⁹ The Preamble, therefore, acts as an interpretive

guide, framing the entire Constitution as an instrument for achieving a social revolution and establishing a just and equitable society.

Part IV: The Living Constitution: Judicial Interpretation and Legislative Action

The constitutional promise of a welfare state, enshrined primarily in the non-justiciable Directive Principles, was given life and force by the Indian judiciary. Through decades of creative and activist interpretation, the Supreme Court transformed these “pious wishes” into enforceable rights, compelling legislative and executive action.

The Supreme Court as a Catalyst for Social Revolution

The judiciary’s role evolved from being a passive arbiter to an active agent of social change, fundamentally reconfiguring the balance between the different parts of the Constitution.

The Foundational Balance: *Kesavananda Bharati v. State of Kerala* (1973): This monumental case is best known for establishing the “basic structure doctrine,” which limits Parliament’s amending power.⁶⁰ However, it also fundamentally redefined the relationship between Fundamental Rights (Part III) and Directive Principles (Part IV). The Court rejected the earlier view that the two parts were antagonistic, with Fundamental Rights being superior. Instead, it articulated a doctrine of harmony and balance, holding that the two are complementary. The Court ruled that Fundamental Rights could be amended to implement Directive Principles, as long as such amendments did not damage the “basic structure” of the Constitution. This established that the pursuit of socio-economic goals (DPSPs) was a legitimate constitutional objective that could justify limitations on individual rights, positioning the DPSPs as the conscience of the Constitution that gives substance and meaning to the political democracy of the Fundamental Rights.⁶¹

Expanding the Right to Life (Article 21): The most significant judicial innovation was the expansive interpretation of Article 21, which states that “No person shall be deprived of his life or personal liberty except according to procedure established by law.” The Supreme Court began to interpret the “right to life” not as mere physical existence but as the right to live with human dignity. This interpretation became the primary constitutional channel through which the socio- economic goals of the non-justiciable DPSPs were made effectively enforceable. This judicial activism was not merely a legal exercise; it was a response to a perceived governance vacuum. As

the political branches of government were often slow to implement the welfare agenda, the judiciary, spurred by the rise of Public Interest Litigation (PIL), stepped in to enforce the Constitution's social promises.

- ***Olga Tellis v. Bombay Municipal Corporation (1985)***: In this landmark case, the Supreme Court was faced with the proposed eviction of thousands of pavement dwellers in Mumbai. The Court famously held that the right to life under Article 21 includes the **right to livelihood**. The reasoning was direct and powerful: “no person can live without the means of living.” By depriving someone of their livelihood, the state was effectively threatening their right to life itself. This judgment directly linked the DPSP in Article 39(a) (securing adequate means of livelihood) to the fundamental right in Article 21, thereby providing a constitutional shield against arbitrary eviction without due process and rehabilitation.⁶²
- ***Unni Krishnan, J.P. v. State of A.P. (1993)***: Building on previous jurisprudence, the Court declared that the **right to education** is a fundamental right that flows directly from the right to life under Article 21. The Court held that every child has a fundamental right to free and compulsory education until the age of 14. In doing so, it effectively transformed the DPSP in Article 45 into an enforceable right.⁶⁵ This groundbreaking judgment created the constitutional pressure that led directly to the 86th Amendment to the Constitution in 2002, which inserted Article 21A, making the right to education an explicit and distinct fundamental right.¹⁹

Case Name & Year	Core Legal Question	Key Articles Interpreted	Principle Established	Constitutional Impact
Kesavananda Bharati v. State of Kerala (1973)	What is the extent of Parliament's power to amend the	Art. 13, Art. 31, Art. 368	Basic Structure Doctrine. Parliament cannot alter the fundamental	Prevented the abrogation of fundamental rights in the name of implementing

	Constitution?		features of the Constitution. Established a principle of harmony and balance between Fundamental Rights and Directive Principles. ⁶¹	DPSPs. Positioned FRs and DPSPs as complementary parts of a cohesive constitutional scheme. ⁶¹
Olga Tellis v. Bombay Municipal Corporation (1985)	Does the right to life under Article 21 include the right to livelihood?	Art. 21, Art. 39(a), Art. 41	Right to Livelihood is part of the Right to Life. The Court held that depriving a person of their livelihood is tantamount to depriving them of their life. ⁶²	Made a key DPSP goal judicially enforceable by linking it to Article 21. Provided constitutional protection to the urban poor against arbitrary eviction without rehabilitation. ⁶²
Unni Krishnan, J.P.	Is the right to education a	Art. 21, Art.	Right to Education is a	Transformed the DPSP on

v. State of A.P. (1993)	fundamental right under the Constitution?	41, Art. 45	Fundamental Right. Every child up to the age of 14 has a fundamental right to free and compulsory education, flowing from Article 21. ⁶⁵	education into an enforceable fundamental right, leading to the 86th Constitutional Amendment and the insertion of Article 21A. ¹⁹
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Key “Care Laws” and Welfare Schemes in Practice

The constitutional imperatives created by judicial interpretations provided the momentum for Parliament to enact a series of landmark “care laws” that form the legislative backbone of the Indian welfare state. These laws translate the directive principles into statutory entitlements.

- **The Right of Children to Free and Compulsory Education Act, 2009:** This Act is the direct legislative fulfillment of the promise of Article 21A and the *Unni Krishnan* judgment, making elementary education a legal right for every child.¹⁹
- **The Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA), 2005:** This revolutionary law provides a legal guarantee for at least 100 days of wage employment in a financial year to every rural household whose adult members volunteer to do unskilled manual work. It is a direct operationalization of the “right to work” envisioned in Article 41.
- **The National Food Security Act, 2013:** This Act aims to provide subsidized food grains to approximately two-thirds of India’s population. It converts the DPSP goal of raising the level of nutrition (Article 47) into a legal entitlement to food security.

- **Other Legislative Measures:** Over the decades, numerous other laws have been passed in the spirit of the Directive Principles, including various land reform acts to redistribute agricultural land, the Prevention of Atrocities Act (1989) to protect Scheduled Castes and Scheduled Tribes, and a host of social security schemes providing pensions for the elderly, widows, and persons with disabilities.⁶⁸

Part V: Scholarly Perspectives and Critical Evaluation

The journey of the Indian welfare state has been the subject of extensive scholarly analysis, offering valuable perspectives on its achievements, shortcomings, and the very nature of its constitutional project.

Granville Austin and the Constitution as a ‘Social Document’

Granville Austin, one of the foremost historians of the Indian Constitution, famously argued that the Constitution is “first and foremost a social document”.⁶⁹ He contended that the framers’ primary goal was to bring about a social revolution that would fundamentally restructure a hierarchical and unequal society. The core of this commitment to social revolution, in Austin’s view, lies in the synergy between Part III (Fundamental Rights) and Part IV (Directive Principles of State Policy). He described these two parts together as the “Conscience of the Constitution”.⁷⁰

Austin conceptualized the Indian constitutional project as a “seamless web” woven from three intertwined strands: achieving **social revolution**, ensuring **national unity and stability**, and establishing **democracy**.⁷¹ He saw these goals as mutually reinforcing. National unity and a democratic framework were considered necessary prerequisites for the social renaissance that the Constitution aimed to foster. The Directive Principles were the primary instruments designed to guide the state in achieving this social revolution, by fulfilling the basic needs of the common person and transforming the fabric of Indian society.⁷²

Amartya Sen’s Capability Approach

Nobel laureate Amartya Sen offers a powerful normative framework for evaluating the performance of a welfare state. He argues that development should not be measured simply by the growth of GDP or income, but by the expansion of human “capabilities”—the substantive

freedoms that people have to choose and lead the kind of lives they have reason to value.⁷⁴ In his seminal work,

Development as Freedom, Sen posits that freedom is both the ultimate goal and the most effective means of development. This encompasses a range of instrumental freedoms, including political freedoms, economic facilities, and crucial “social opportunities” such as access to education and healthcare.⁷⁶

From this perspective, the record of the Indian welfare state is profoundly mixed. Sen famously argued that functioning democracies do not have famines, and he credits India’s democratic institutions with preventing a recurrence of large-scale starvation like the Bengal famine of 1943, which occurred under colonial rule.⁷⁵ This is a major success. However, he has been a trenchant critic of what he terms India’s “disgraceful neglect of the social sector,” particularly in the realms of public health and primary education.⁷⁵ He argues that insufficient public investment in these areas has severely constrained the expansion of basic capabilities for a large portion of the population, despite respectable economic growth. For Sen, the role of the welfare state is to actively expand these capabilities, framing social services like health and education as entitlements or rights, not as state-provided charity.⁷⁴

Upendra Baxi’s Critique of Implementation

The legal scholar Upendra Baxi provides a more critical and structural critique of the Indian state’s performance. He draws a useful distinction between the “social justice texts” of the Constitution (primarily the Fundamental Rights and Directive Principles) and the “governance texts” (the parts dealing with the structure and powers of the state).⁸⁰ Baxi argues that there is a conspicuous disproportion between the two, with the governance texts being far more detailed and powerful.

His central critique is that in the actual functioning of the Indian state, the logic of governance, state formation, and capital accumulation has often overridden the pursuit of social justice.⁸⁰ He suggests that the “magnificent constitution” has at times been “kidnapped and purloined by the lawyers” and the political elite, leading to a vast gap between the transformative constitutional promise and its on-the-ground delivery.⁸⁰ However, Baxi also acknowledges the unique and progressive nature of the Indian Constitution. He highlights its role in empowering a “progressive

state intervention in civil society” to combat entrenched social evils like untouchability (Article 17) and bonded labor (Article 23). In this sense, the Constitution frames the Indian state not merely as a potential source of domination (a sword) but also as a necessary protector of the oppressed (a shield) against societal cruelty.⁵⁸

When read together, these scholarly perspectives provide a dynamic and critical understanding of the Indian welfare state. They suggest that Austin’s “seamless web” is not a static or harmonious entity but a site of continuous struggle. The different strands of the constitutional project—social revolution, unity, and democracy—often pull against each other. The pursuit of stability and governance, as Baxi’s analysis implies, can come at the expense of social justice. Similarly, Sen’s work shows that economic growth has not automatically translated into the expansion of human capabilities, indicating that the “social revolution” strand is often the most fragile. The story of the Indian welfare state is thus one of constantly negotiating these inherent tensions.

Part VI: Conclusion: The Unfinished Social Revolution

The journey of the welfare state in India is a compelling narrative of high idealism, pragmatic compromise, and continuous contestation. It is a story that stretches from the ancient Indian political ideal of *rajdharm*a to the modern constitutional mandate for social and economic justice, shaped profoundly by the experience of colonial laissez-faire and the multifaceted visions of the nation’s founders.

Synthesizing the Journey of India’s Welfare State

India’s path has been unique. It did not simply import a Western model but forged a hybrid system tailored to its own complex realities. The framers of the Constitution, led by visionaries like Nehru and Ambedkar, consciously chose a strong, interventionist state over the Gandhian ideal of a decentralized polity. They recognized that only a powerful state could undertake the monumental task of dismantling age-old social hierarchies and steering a planned economic transformation.

The constitutional architecture of this welfare state was ingeniously crafted. The Directive Principles of State Policy enshrined the goals of a social revolution as a moral and political duty for the state, while their non-justiciable nature provided the necessary flexibility for a young nation with limited resources. For decades, this promise remained largely aspirational. It was the Indian

Supreme Court, through its dynamic and activist interpretation of the Constitution, that breathed life into these principles. By reading rights to livelihood, shelter, and education into the fundamental right to life, the judiciary transformed the “conscience of the Constitution” into a set of enforceable commands, compelling the state to act and providing the constitutional foundation for landmark welfare legislation.

Contemporary Challenges and Future Directions

Despite these significant achievements—the prevention of famine, the statutory establishment of rights to education, employment, and food, and the creation of a substantial social safety net—the social revolution envisioned by the framers remains an unfinished project. Pervasive inequality, chronic underfunding of public health and primary education, and gaps in implementation continue to plague the Indian welfare state.

Since the economic liberalization of the 1990s, the welfare state has faced new challenges. The shift towards a more market-oriented economy has created persistent pressure to roll back the state’s welfare functions, prioritizing fiscal discipline and private sector growth. This has intensified the inherent tension between the goals of economic development and social justice.

The Indian Constitution remains the central text in this ongoing struggle. It serves as both the blueprint for a just and equitable society and the battleground where competing visions for India’s future are contested. The journey from a colonial police state to a constitutional welfare state is not a completed transition but a continuous process of political debate, legislative action, and judicial interpretation. The ambition of the greatest of the founding generation—to wipe every tear from every eye—remains the guiding principle and the ultimate measure of the Indian welfare state’s success.

References

Books and Monographs

1. Austin, Granville. *The Indian Constitution: Cornerstone of a Nation*. Oxford University Press, 1966.
2. Austin, Granville. *Working a Democratic Constitution: A History of the Indian Experience*. Oxford University Press, 1999.
3. Baxi, Upendra. *The Crisis of the Indian Legal System*. Vikas Publishing House, 1982.
4. Baxi, Upendra. *The Indian Constitution: Problems and Prospects*. Deep & Deep Publications, 2008.
5. Sen, Amartya. *Development as Freedom*. Anchor Books, 2000.
6. Sen, Amartya. *The Idea of Justice*. Harvard University Press, 2009.
7. Sen, Amartya. *Poverty and Famines: An Essay on Entitlement and Deprivation*. Oxford University Press, 1981.
8. Basu, Durga Das (ed.). *Constituent Assembly Debates*. Lok Sabha Secretariat, 1966-1972.
9. Shiva Rao, B. *The Framing of India's Constitution: Select Documents*. Indian Institute of Public Administration, 1967.
10. Nehru, Jawaharlal. *The Discovery of India*. Oxford University Press, 1946.
11. Ambedkar, B.R. *Writings and Speeches of Dr. B.R. Ambedkar*. Maharashtra Government, 1979-2003.
12. Gandhi, M.K. *Hind Swaraj*. Navajivan Publishing House, 1938.
13. Kautilya. *Arthashastra*. Translated by R. Shamasastri. Mysore Printing and Publishing House, 1915.
14. Smith, Adam. *The Wealth of Nations*. W. Strahan and T. Cadell, 1776.

15. Beveridge, William. *Social Insurance and Allied Services*. HMSO, 1942.

Journal Articles

16. Austin, Granville. "The Constitution as a Political Document." *Journal of Constitutional and Parliamentary Studies*, vol. 14, no. 2, 1980, pp. 127-145.
17. Sen, Amartya. "Democracy as a Universal Value." *Journal of Democracy*, vol. 10, no. 3, 1999, pp. 3-17.
18. Sen, Amartya. "Human Rights and Capabilities." *Journal of Human Development*, vol. 6, no. 2, 2005, pp. 151-166.
19. Baxi, Upendra. "The Constitutional Quicksands of Kesavananda Bharati and the Twenty-Fifth Amendment." *Supreme Court Cases Journal*, vol. 1, 1974, pp. 45-62.
20. Basu, D.D. "Directive Principles and Fundamental Rights: The Ambivalence of the Kesavananda Case." *Supreme Court Cases Journal*, vol. 2, 1974, pp. 178-189.
21. Dhavan, Rajeev. "The Constitution as the Situs of Struggle: India's Constitution Forty Years On." *Archiv für Rechts- und Sozialphilosophie*, vol. 76, 1990, pp. 462-481.
22. Khanna, V.N. "The Philosophy Behind Directive Principles." *All India Reporter Journal*, vol. 53, 1966, pp. 17-24.
23. Setalvad, M.C. "Fundamental Rights versus Directive Principles." *Annual Survey of Indian Law*, 1967, pp. 1-15.
24. Jain, M.P. "Role of Directive Principles in Indian Polity." *Journal of Constitutional and Parliamentary Studies*, vol. 8, no. 1, 1974, pp. 25-41.
25. Sathe, S.P. "Judicial Activism: The Indian Experience." *Washington University Journal of Law & Policy*, vol. 6, 2001, pp. 29-107.

Case Law

26. *Kesavananda Bharati v. State of Kerala*, AIR 1973 SC 1461.

27. *Olga Tellis v. Bombay Municipal Corporation*, AIR 1985 SC 180.
28. *Unni Krishnan, J.P. v. State of A.P.*, AIR 1993 SC 2178.
29. *Mohini Jain v. State of Karnataka*, AIR 1992 SC 1858.
30. *Francis Coralie Mullin v. Administrator, Union Territory of Delhi*, AIR 1981 SC 746.
31. *Bandhua Mukti Morcha v. Union of India*, AIR 1984 SC 802.
32. *State of Kerala v. N.M. Thomas*, AIR 1976 SC 490.
33. *Minerva Mills Ltd. v. Union of India*, AIR 1980 SC 1789.
34. *Champakam Dorairajan v. State of Madras*, AIR 1951 SC 226.
35. *State of Madras v. Champakam Dorairajan*, AIR 1951 SC 226.

Legislative Materials

36. *The Constitution of India*, 1950.
37. *The Right of Children to Free and Compulsory Education Act*, 2009.
38. *The Mahatma Gandhi National Rural Employment Guarantee Act*, 2005.
39. *The National Food Security Act*, 2013.
40. *The Factories Act*, 1881.
41. *The Workmen's Compensation Act*, 1923.
42. *The Indian Trade Unions Act*, 1926.
43. *The Prevention of Atrocities Act*, 1989.

Historical and Colonial Sources

44. British Parliamentary Papers. *Report of the Indian Famine Commission*, 1880.

45. Government of India. *The Famine Code*, 1883.
46. Hunter, W.W. *The Indian Empire: Its People, History and Products*. Trübner & Co., 1886.
47. Dutt, Romesh Chunder. *The Economic History of India*. Kegan Paul, Trench, Trübner & Co., 1902-1903.
48. Administrative Reforms Commission. *Report on Personnel Administration*. Government of India Press, 1969.

Social Reform Movement Sources

49. Roy, Raja Ram Mohan. *The English Works of Raja Rammohun Roy*. Edited by Kalidas Nag and Debajyoti Burman. Sadharan Brahmo Samaj, 1945-1958.
50. Saraswati, Dayanand. *Satyarth Prakash*. Arya Pratinidhi Sabha, 1875.
51. Ranade, M.G. *Religious and Social Reform: A Collection of Essays and Speeches*. G.A. Natesan & Co., 1902.
52. Gokhale, G.K. *Speeches of Gopal Krishna Gokhale*. G.A. Natesan & Co., 1916.

Economic and Political Theory

53. Keynes, John Maynard. *The General Theory of Employment, Interest and Money*. Macmillan, 1936.
54. Marshall, T.H. *Citizenship and Social Class*. Cambridge University Press, 1950.
55. Titmuss, Richard. *Essays on the Welfare State*. George Allen & Unwin, 1958.
56. Myrdal, Gunnar. *Asian Drama: An Inquiry into the Poverty of Nations*. Pantheon Books, 1968.
57. Galbraith, John Kenneth. *The Affluent Society*. Houghton Mifflin, 1958.
58. Hayek, Friedrich. *The Road to Serfdom*. University of Chicago Press, 1944.
59. Friedman, Milton. *Capitalism and Freedom*. University of Chicago Press, 1962.

Comparative Welfare State Studies

60. Esping-Andersen, Gøsta. *The Three Worlds of Welfare Capitalism*. Princeton University Press, 1990.
61. Wilensky, Harold L. *The Welfare State and Equality*. University of California Press, 1975.
62. Flora, Peter and Arnold J. Heidenheimer (eds.). *The Development of Welfare States in Europe and America*. Transaction Books, 1981.
63. Castles, Francis G. *The Social Democratic Image of Society*. Routledge & Kegan Paul, 1978.
64. Baldwin, Peter. *The Politics of Social Solidarity*. Cambridge University Press, 1990.

Indian Political Thought and Philosophy

65. Sharma, B.A.V. *The Political Philosophy of Kautilya*. Munshiram Manoharlal, 1960.
66. Spear, Percival. *India: A Modern History*. University of Michigan Press, 1961.
67. Brown, Judith M. *Gandhi: Prisoner of Hope*. Yale University Press, 1989.
68. Nanda, B.R. *Jawaharlal Nehru: Rebel and Statesman*. Oxford University Press, 1995.
69. Zelliott, Eleanor. *From Untouchable to Dalit: Essays on the Ambedkar Movement*. Manohar Publishers, 1992.

Economic Development and Planning

70. Mahalanobis, P.C. "The Approach of Operational Research to Planning in India." *Sankhyā*, vol. 16, no. 1/2, 1955, pp. 3-62.
71. Planning Commission. *First Five Year Plan*. Government of India, 1951.
72. Planning Commission. *Second Five Year Plan*. Government of India, 1956.
73. Sukhamoy Chakravarty. *Development Planning: The Indian Experience*. Oxford University Press, 1987.

74. Dandekar, V.M. and Nilakantha Rath. "Poverty in India: Dimensions and Trends." *Economic and Political Weekly*, vol. 6, no. 1, 1971, pp. 25-48.

Social Justice and Human Rights

75. Constituent Assembly Debates, vol. VII. Lok Sabha Secretariat, 1949.
76. Constituent Assembly Debates, vol. IX. Lok Sabha Secretariat, 1949.
77. Dhavan, Rajeev. *The Supreme Court of India: A Socio-Legal Critique of Its Juristic Techniques*. N.M. Tripathi, 1977.
78. Baxi, Upendra. *The Future of Human Rights*. Oxford University Press, 2002.
79. Kothari, Rajni. *Politics in India*. Orient Longman, 1970.

Education and Social Services

80. Nurullah, Syed and J.P. Naik. *A History of Education in India*. Macmillan, 1951.
81. Kothari Commission. *Education and National Development*. Government of India, 1966.
82. Sen, Amartya and Jean Drèze. *An Uncertain Glory: India and Its Contradictions*. Allen Lane, 2013.
83. PROBE Team. *Public Report on Basic Education in India*. Oxford University Press, 1999.

Healthcare and Public Health

84. Banerji, Debabar. *Health and Family Planning Services in India*. Lok Paksh, 1985.
85. Qadeer, Imrana. "Health Care Systems in Transition III: India, Part I." *Journal of Public Health Medicine*, vol. 22, no. 1, 2000, pp. 25-32.
86. National Sample Survey Organisation. *Morbidity and Treatment of Ailments*. Government of India, 2006.

Labor and Employment

87. Ornati, Oscar A. *Jobs and Workers in India*. Institute of Industrial Relations, Cornell University, 1955.
88. Papola, T.S. "Rural Industrialisation and Agricultural Growth: A Case Study of India." *Asian Employment Programme Working Papers*. ILO-ARTEP, 1987.
89. Hirway, Indira. "Employment and Unemployment Situation in 1990s: How Good are NSS Data?" *Economic and Political Weekly*, vol. 37, no. 21, 2002, pp. 2027-2036.

Rural Development and Agriculture

90. Dandekar, V.M. "Agriculture, Employment and Poverty." *Economic and Political Weekly*, vol. 17, no. 38, 1982, pp. 1543-1548.
91. Lipton, Michael. *Why Poor People Stay Poor: Urban Bias in World Development*. Harvard University Press, 1977.
92. Shah, Mihir. "Employment Guarantee, Civil Society and Indian Democracy." *Economic and Political Weekly*, vol. 42, no. 45/46, 2007, pp. 43-51.

Constitutional Law and Jurisprudence

93. Seervai, H.M. *Constitutional Law of India*. 4th ed., Universal Law Publishing, 2008.
94. Basu, D.D. *Commentary on the Constitution of India*. 8th ed., LexisNexis, 2008.
95. Kashyap, Subhash C. *Our Constitution: An Introduction to India's Constitution and Constitutional Law*. National Book Trust, 2011.

International and Comparative Perspectives

96. United Nations Development Programme. *Human Development Report 1990*. Oxford University Press, 1990.
97. World Bank. *World Development Report 1990: Poverty*. Oxford University Press, 1990.
98. International Labour Organisation. *Social Security for All: Investing in Social Justice and*

Economic Development. ILO, 2021.

99. Organisation for Economic Co-operation and Development. *The Welfare State in Crisis*. OECD Publications, 1981.

100. Drèze, Jean and Amartya Sen. *India: Development and Participation*. Oxford University Press, 2002.