PROPERTY RELATIONS IN INDIA AND THE SOCIAL ORDER: THE PERSPECTIVE OF SOCIAL CHANGE

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INTRODUCTION

In every society property relationship and other elements of the social order are closely interlinked. Even if property relations are not regarded as the foundations on which the whole social order rests as a superstructure, it is undeniable that the conception of property and the relationship it entails among members of a community, have deep and wide implications for all aspects of social life. The purpose of this paper is to analyse in a broad perspective of social change the shape property relations are likely to take under the stress of actual socio-economic forces existing in an underdeveloped country like India.

When a constitution is consciously formulated and it lays down the principles on which property is to be held and acquired, it should naturally be based on a comprehensive worldview. If there is any inconsistency, inadvertent or deliberate, in the broad notion of socio-political order, this is bound to be reflected in the form of incoherent provisions regarding the ownership and acquisition of property. It is therefore, necessary to make an appraisal of the concept of property and property relationships inherent in the Indian Constitution and to explore the wider values regarding the social order on which the Constitution is based. Only to the extent that these values are self-consistent and consistent with the provisions regarding property can they provide guidance to the executive and legislative branches, and offer the judiciary a fair scope to interpret the constitutional provisions in a meaningful way. Wihle examining provisions regarding property contained in the Indian Constitution it is necessary to see what the general picture of Indian society and its dynamics was in the minds of the fathers of this constitution and to what extent it was self-consistent. It may also be attempted to see how far the general tenor of these provisions is consistent with the perceivable trends of growth of Indian society from a semi-feudalistic agrarian society to a modernised industrial nation.

The vrey fact that the provisions relating to property in the Indian Constitution had to be amended under the leadership of those very people who were largely responsible for its original formulation, suggests a strong *prima facie* case for the existence of ambiguities and internal tensions. In fact it appears that many of the social objectives embeded in the Directive

Principles of State Policy do not square very well, with the provisions protecting the rights of private property. Apart from what is contained in the Directive Principles, the ruling party and its widely respected leaders have emphatically proclaimed the need and desirability of turning India into a socialist society. In so far as these proclamations, and policies based on them, come in conflict with the constitutional provisions regarding the right to private property, the situation is bound to remain confusing and unstable. It has to be recognised that all the hands which shaped the eloborate edifice of the Indian Constitution were not motivated by common aspirations. Indeed the thinking of even single individuals was often torn by conflicting claims of planned development and individualistic liberalism. It is not surprising that in such circumstances the exact wording of constitutional provisions was often ambivalent. The framer himself was not sure which of the claims should be put uppermost in the last analysis. However, when a piece of legislation is enacted which seems to be necessary for the furtherance of social justice and a step towards the progress of the economy and the society, and it is found inconsistent with some provisions of the constitution, the wrath of the leadership and of some sections of the public turns against the Judiciary. On several occasions piecemeal changes in the constitution have been introduced in order to remove hinderences in the enactment of particular types of legislation. The amendments too are narrow in their scope and instead of laying down broad principles on the basis of which justice could be dispensed by the courts, are more or less of an *ad hoc* nature. The picture of property relations remains confused. If we take a sufficiently large socio-cultural perspective covering communities with different types of technological, economic and institutional features, it becomes obvious that no conception of property can be valid for all types of society through all ages. The conception of private property as it developed in some parts of the world in a particular age may perhaps not continue to be regarded as sacrosanct in widely different circumstances.

II. The Nature of Socio-Economic Change in Developing Countries

Very often it is assumed that the course of socio-economic change in countries like India would be more or less the same as that in the countries of western Europe during the earlier phases of industrialization and modernization. This need not be so.[1]

Even though the nature of pre-industrial society in countries of Western

1. Cf. Indra Deva, *"Une hypothese sur l'evolution sociale,"* DIOGENE, (Oct.-Dec. 1966), at 82-101.

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Europe may not be basically different from the traditional society in developing countries the socio-economic forces which are impinging upon the traditional societies in underdeveloped countries have greatly changed The parallel between the early phases of modernization in countries of western Europe and trends of social change in the developing countries of today, therefore, breaks down. To refer to an important area in which the divergence is obvious, the technology which is affecting the developing societies like that of India is not the same that revolutionized the society of England and other countries of western Europe in the eighteenth and nineteenth centuries. Large parts of the world's population which have so far lived under traditional socio-cultural and economic conditions are now being exposed for the first time to a vast complex of technology which includes, not only crude and big factories run by steam, but complex and sophisticated industries and gadgets which make use of electricity and gasoline. The response of the traditional societies and cultures in contemporary times to machine technology cannot therefore be expected to be exactly the same as was that of the countries of western Europe in their earlier phases of industrialization.

Similarly, in the realm of new ideas and of socio-economic movements the pattern and tempo of change in the developing countries in contemporary times are characteristically different from those in the earlier phases of industrialization in countries of the west, they are being given a trial on a large scale not in those countries but rather in countries which are latecomers to the drama of modernisation. This appears to be in marked contrast to the prediction made by Karl Marx that capitalism will break down first in the countries which are most advanced because it is there that its contradictions would have developed most. The fact that not the advanced capitalist countries of the world, but the newly developing countries are taking seriously to programmes of socialism needs explanation. The very fact that societies of this kind are taking to overall planning, though they belong to very different parts of the world, suggests that there must be certain common factors in the dynamics of their development. A search for these factors would deepen our understanding of the direction which the socio-economic order in India is likely to take and would provide a broad and realistic perspective for the study of emerging trends in property relationship.

It may be stated at the outset that the adoption of collectivistic ideologies of large-scale planning by relatively underdeveloped countries (including Russia of 1917 and China) cannot be explained merely by saying that in these countries dictatorial minorites seized power and imposed such programmes forcibly There must be something more in the socio-economic situation of the newly developing countries of the twentieth century that makes programmes of planned development attractive for them. The wide popularity of the planning approach in its various kinds among the people

and leadership of emerging nations of Asia, Africa and Latin America can hardly be explained otherwise.

In the first place, in developing countries like India, there is a tremendous attitudinal pressure for quickening the pace of economic development. This is partically due to the fact that not only are scientific knowledge and technology transmitted from the advanced societies to the developing ones, but the prevailing values and latest ideas about public welfare, and about desirable standards of health and living in the western countries do not remain unknown to the elite, and even to the common people of the underdeveloped countries. This creates an explosive situation in the widely recognized form of a chasm btween aspirations and resources. It is to be noted that it is not a question only of divergence between an individual's ideas about a decent standard of living and the material means available to him. The problem exists for whole communities and states which try to secure a kind of life for their people, for the realization of which the resources do not exist. The underdeveloped countries have not been able to create a capital base on which a self-generating economy can thrive. In terms of economic development these countries are not much ahead of the early stage of capitalism in western Europe, which was marked by almost unrestricted exploitation of labour and accumulation of capital. But in the underdeveloped countries of today, the workers demand working hours and conditions (if not wages) which are comparable to those enjoyed in the highly advanced societies.

This calls for new frames of reference for sizing up social reality. The situation in the underdeveloped countries today appears to be just the opposite of that summed up by W. F. Ogubrn through his well known theory of "Cultural Lag." According to that theory the material aspect of culture, changes more quickly than the non-material aspect. Thus a lag is caused which creates tensions and ultimately social disorganisation. In the contemporary underdeveloped societies, it is the non-material culture that has been changing more rapidly than the material culture. These lags are causing tensions which are of no less consequence.

The developing countries, therefore, look for paths of economic development which may reduce considerably the time taken for such development. Moreover, the path to modernization taken by countries of the west is found to be riddled by serious obstacles. Many advantages that were available to capitalism in its early days, exist no more for countries which embark on the path of modernization now. No more are there the vast virgin lands to occupy; no more are there colonies to exploit. The competition from the products of the more advanced countries is so strong that the *entrepreneur* in the underdeveloped countries can hardly stand it without systematic and concerted support from the state. Once a crucial role is

conceded to the state in economic enterprise, the *raison de entre* for private capitalism becomes doubtful.

No less important than the material obstacles that hinder the growth of capitalism in the underdeveloped countries is an attitudinal factor. Capitalism today, even in countries of its origin and in societies to which it has secured a fabulous standard of living, has lost much of the self-confidence which it had in its early days. The entrepreneurs and leaders who built the edifice of capitalism in the west were confident of its magnificance. Leaders of opinion in those days believed that the system was salvaging humanity from medieval darkness and leading it to progress. Those generation therefore, did not hesitate to pay the price of its growth even if it caused misery. Today, capitalism lacks this confidence. Indeed, Joseph A. Schumpeter thinks that the downfall of capitalism will come not because of any of its supposed shortcomings but primarily due to "the increasing hostility of environment and by the legislative administrative and judicial practice born of that hostility."[2] Today when capitalism does not evoke confidence enough to sustain itself in the countries to which it has given so much, how difficult it would be to arouse confidence to build it afresh in the underdeveloped countries. In concrete terms this means that not many states in the newly developing parts of the world are prepared today to give capitalism sufficient scope and freedom to develop.

It has also to be recognised that the problems in most of these underdeveloped countries are such that almost no government would leave matters entirely to individual enterprise. The state has to assume leadership not only for economic development but also social and cultural domains. Because of the high rate of social change and inflated aspirations, the lags and tensions are of such magnitude and complexity, and the problems are so pressing that without centralized coordination there seems to be no way out. Even the imperial and colonial powers had to play this role of leadership in the territories that they governed.

In such circumstances the ideas of overall socio-economic planning and directed change have greater appeal to the elite and common people of the underdeveloped countries than those of the countries where these ideas originated. With conditions not very favourable to unhindered growth of capitalism, and with little time to wait for the development of private initiative, these countries are turning to socio-economic ideologies that promise planned and rapid development.

It is significant that the underdeveloped countries, paradoxically, do not have many of the resistances which their more advanced counterparts have against such transition. In the advanced couuntries of the west, during

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2. Schumpeter, *Capitalism, Socialism and Democracy* 63-1516 (1947).

the period of an ample growth of capitalism, many institutional and valuational patterns which have developed and gathered strength, strongly resist attempts towards any form of collectivism or overall planning. Individualistic notions and value have struck deep roots in the minds of the people of the west. Individualistic conceptions with regard to property, justice freedom and personality development provide strong resistance to collectivistic programmes and practice. The spirit of activism, competetion, and unlimited acquisitiveness make the propects of a system promising overall security, not too fascinating for an average member of the western society.

On the contrary, the values commonly prevalent among present and feudalistic societies are not wholly contradictory to the values propagated by collectivistic ideologies of various kinds. In some of its features the value system prevalent among traditional peasant societies, appears to be collectivistic though this collectivism may not be of the type espoused by the modern ideologies of socialism, communism or large-scale planning. The life in these communities has been marked by the gestalt of familism. Not only does the family play a most important part in life in peasant society, all other institutions and relationships too bear the impress of familistic forms. In such societies, it is the "family ego" that predominates.[3] Individual achievement occupies only a subsidiary place. Whatever the individual achieves or gains does not accrue to his personal status or purse, but adds to the family funds or prestige and wealth. And each member of the family gets from the common funds, not so much according to what he earns, but according to what he needs. Even though, due to modern pressures it is becoming increasingly difficult to practice all the traditional norms of peasant familism, on an ideal plane these are still supposed to be superior to individualistic attitudes and relationships.

Social status in traditional pre-modern societies is typically ascribed rather than achieved. The emphasis on competition therefore, is weak. The remanents of the traditional village community, presents a pattern of economic exchange which is based not on principles of the market but on a system of cooperation among professional groups. For instance, in many villages, where the famous *Jamani* system still thrives, the barber, the potter, the washerman, the carpenter and the ironsmith do not get cash payment for their services. They render service throughout the year, and at the time of harvest get traditionally fixed amounts of grain from those families of farmers who are their clients from generation to generation. In this there is no competition of goods and services, nor a fixation of exchange value on that basis.

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3. Cf. Sorokin, Zemmerman and Galpin, *A Systematic Source book in Rural Sociology* (1930-32), Vol. II.

Many scholars hold that before the Indian village community declined under the impact of the British rule, cultivable land in each village was owned communally.[4] There may be some differences of opinion in this regard, but there is hardly any doubt that before the British domination, land was not a marketable commodity which could be freely sold and purchased. It is well known that the *Weltanschaung* of most of the peasant societies emphasises the craving for security rather than that for an even rising standard of living. The conception of king and state too is traditionally paternalistic. Eventhough, for obvious reasons, in pre-modern societies the state could not render in practice any wide range of services to its citizens, there have been no ideals comparable to that of *laiseez faire,* restricting the scope of state activity.

The discussion above is not meant to show that underdeveloped countries like India already had in the past (or posses now) institutions and values comparable to programmes or ideologies of communism, socialism or any other system of planned collectivistic society proposed in modern times. What is meant simply is that in the underdeveloped societies there may not be such resistence to overall planning and similar programmes as are found in the highly developed capitalist societies. Even when a section of the people in the newly developing societies appears to have already adopted attitudes favouring individualism, free competition etc., it is often found that such acceptance is only skin-deep. Under a little stress, these attitudes may be given up.

III. Emerging Property Relationships and Social Order

The above appraisal of the general direction of socio-cultural change in the newly developing countries of the world suggests that it would not be objective on our part to take for granted that private property will continue to be guaranteed in countries like India through their march towards modernisation. On the contrary, chances are, that as programme of overall socio-economic planning goes underway, restrictions on the acquisition and control of individual property by the state will grow weaker.

In fact if in the persuit of the egalitarian, socialist ideal, a change in the social order is sought to be brought about, the idea of providing adequate compensation for the property acquired will have to be given up. For if the compensation to be given is equivalent to the prevailing value of the property acquired, no programme of nationalization will substantially effect the distribution of wealth and economic power. Obviously, any government or leadership which is sanguine about adopting a really socialistic programme cannot allow adequate compensation in this

4. For a discussion in favour of village community's rights over cultivable land, see Ramkrishna Mukerjee, *Dynamics of a Rural Society.*

sense Moreover, in-so-far as socialist planning implies the collective ownership of means of production, (though not necessarily those of consumption), if equivalent compensation is provided to indivdiuals for the means of production acquired, without permitting them to own and control other means of production, huge amounts of capital will be diverted to consumption. This again is an impossible choice.

It seems fairly clear that any programme of overall economic planning particularly in the conditions of a developing country like India, will serverly restrict the right to private property. Private ownership of the important means of production by individuals, who naturally work for private profit, can hardly go hand in hand with comprehensive programmes of planned development. To eliminate or at least to suitably adjust private ownership of means of production in accordance with the needs of planned economy the right to private property is bound to be restricted. Of course, this would be applicable only when the country really relies on socio-economic planning, rather than on the market mechanism and the profit motive for development. As we have seen above the tendency in the developing countries appears to be to lean more and more on overall economic planning.

In India, the Constitution makers and those who have been the first to hold the reins of power seem to be interested chiefly in changing property relations regarding land. This is clearly shown by the amendment of article 31 and its broad judicial interpretation. Regarding the urban and industrial property, the position still seems to be that the property acquired has to be adequately compensated; and adequacy of compensation refers not to the needs of the persons from whom the property is acquired but to the market value of the property. It is natural for the judiciary to interpret the provisions of the Constitution as they exist. Due to the broader perspective of the trends of social change in the developing countries of today, it appears that this principle of ownership and acquisition of property may not last long .