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CHAPTER

Social Policy and Social Legislation

INTRODUCTION

The key word policy implies adaption of a sagacious course of action in order to achieve the derived objectives. This function is usually associated with a Government or a Political party which is expected to set out its policy. However, it is possible for a non-political organisation or an individual also to have a policy as a guideline for its/his own plans and actions. Any human action must have a guiding principle which would help in enhancing its goals. Therefore, policy is an important aspect in the fulfilment of the desired goals. Green Revolution was launched for the welfare of the people but it did not bring the sufficient results due to lack of comprehensive policy. Policy in itself, does not solve the problems, but it is the first step towards development and problem-solving process. Policy implies adoption of a course of actions in order to achieve the desired objectives.

In this chapter, we shall discuss the significant role of social policy, social welfare planning, social legislation, social justice and social security in promoting social welfare.

A. SOCIAL POLICY

Social policy is that written course of action which is formulated and implemented by government to achieve the

pre-determined and well defined objective. It is the settled course of action adopted and followed by government or political party and is a part of planning process and social administration. Social policy is an instrument for bringing about structural and functional changes in the society so as to reach the desired goals.

Social policy may be defined as a process involving social, political and economic system in the governmental and non-governmental institutions to achieve the desired objectives. Social policy specifies the goals, the resources and the manner of their utilisation to the attainment of these goals. The functions of social policy are in relation to developmental objectives and those meant to remove social and economic obstacles to development.

(a) Need of Social Policy

The need of social policy can be illustrated on the following grounds:

- (i) Social policy can discharge the social services successfully.
- (ii) Social objectives can be achieved through social policy.
- (iii) Evaluation and assessment of social services can be conducted on the basis of social policy.
- (iv) It prevents problems and mismanagement among the administrators.
- (v) Long-term and short-term objectives are set-up by social policy.
- (vi) Social policy takes into consideration the social situation prevailing in the country.
- (vii) A balanced socio-economic development is possible through formulating social policy.
- (viii) Social planning for development can be done on the basis of social policy.

(b) Objectives of Social Policy

As for the redistributive objective of social policy, the report of the committee on distribution of income and levels of living (Mahalanobis, 1964) come up with an equivocal finding.

It pointed out income disparity in the urban areas. It was not until the beginning of the Fourth Five Year Plan that the twin objective of growth and justice was officially incorporated in the preamble to the plan. Even so, it was made out that the claims of distributive justice often clashed with economic imperatives, in the short-run at any rate, and it was hoped that eventually they would reconcile.

Some of objectives of social policy can be deduced as follows:

- (i) Social policy aims at bringing about social change.
- (ii) To help in proper redistribution of social resources.
- (iii) To improve the quality of life of people and protect the weaker sections of the society.
- (iv) To eradicate poverty and generate employment opportunities.
- (v) To develop human resources.
- (vi) To provide people's participation in the development process.
- (vii) To minimise human suffering and maximise human welfare.

(c) Social Policy and Economic Policy

Since social policy is now expected to influence national development plans, a question is often asked as to the precise difference between economic policy and social policy. In the first place, a policy designed almost exclusively in terms of economic objectives, like raising the national GNP and per capita incomes.

Economic policy can be supplemented and complemented by the objective and operations designed to bring about equality of opportunity and narrowing the difference of wealth and income. Such a social policy may also help bring about institutional systematic change. Taking that experience into consideration, the international strategy adopted by the U.N. for the second development decade referred to it as integrated development. The integration sought to be achieved was not just of social change with economic growth but social justice in its protective and promotive sense. This was reflected in preambles to the official

documents of five year plans with phrases like "growth with justice". In fact, in some instances it went further to advocate growth for justice. In extreme cases it has ever been referred to as justice with or without growth. In any case the difference of emphasis and approach is sufficiently indication to bring out the difference between economic and social policy.

(d) Fundamental Rights

The fundamental rights guaranteed to citizens of India in the constitution (Arts. 12 to 35) constitute the political and civil rights and are justiciable, and aggrieved person can go to a court of law of redress. Article 15 guarantees equality before law; the state shall not deny to any person equality before the law or the equal protection of laws within the territory of India. Article 15, prohibits discrimination on grounds of religion, race, caste, sex or place of birth for access to shops, public restaurants, hotels and places of public entertainment or the use of wells, tanks, bathing ghats, roads and places or public resorts maintained wholly or partly out of state funds or dedicated to the use to the general public. Article 16 provides equality of opportunity in matters of public employment, Article 17 abolishes untouchability and forbids its practices in any form and makes the offence punishable in accordance with law, Article 19 protects rights of freedom of speech and expression, to assemble peacefully and without arms, to form associations or unions, to move freely throughout the territory of India, to reside and settle any part of the territory of India and to practice any profession or to carry on any occupation trade or business. Article 21 provides protection of life and personality Liberty, Article 23 prohibits traffic in human beings and forced labour. Article 24 prohibits employment of children below the age of 14 years in any factory and mines or any other hazardous employment, Article 26 grants freedom to manage religious affairs to every religious denomination. Article 28 denies religious instruction in any educational institution wholly maintained out of state funds. Article 29 grants protection of interests of minorities and their rights to establish and administer educational institutions. Finally, Article 32 provides remedies for enforcement of the fundamental rights by empowering the

Supreme Court or issue directions, orders or writs. The fundamental rights to property hindered to attainment of welfare state and was against the interest of the vast majority of poor people. It was therefore declared as a mere legal rights by the constitution.

(e) Directives of State Policy

The directive principles of state policy constitute the social and economic rights of the people of India. They are contained in (Articles 36-51) of the constitution in the government of the country and it shall be the duty of the state to apply these principles in making law. Article 38 expects the state shall strive to promote the welfare of the people by securing the protection as effectively as it may in a social order in which justice; social, economic and political shall prevail in all the institutions of the mutual life.

The state shall, in particular, strive to minimise the inequality in income and endeavour to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different reactions.

The difference between Fundamental rights and Directive Principles lies in this—fundamental rights are primarily aimed at assuring political freedom to the citizens by protecting them against excessive state action while the directive principles are aimed at securing social and economic freedom by appropriate state action. The fundamental rights are intended to foster the idea of a political democracy and to prevent the establishment of authoritarian rule but they are of no value unless they can be enforced by resort to courts. So they are made justifiable, however, it is also evident that notwithstanding their great importance, the directive principles cannot in the very nature of things be enforced in a court of law. But it does not mean the directive principles are of less importance than the fundamental rights of that, they are not binding on the various organs of the state.

(f) Social Policy and Social Development

Social policy in India has come a long way during the last 29 years since the attainment of political independence.

There was a time when the Directive Principles of State Policy as embodied in the constitution were cited as the fountain-spring of all national policies, more particularly of the social policy of the country. In recent years, however, especially after the declaration of National Emergency in June 1975, the government was at pains to stress social policy much more than was done ever before in order to give greater visibility to what they sought to do for the poor. Earlier the worst qualitative canoe came with the motto, "Growth with Justice" as set at the beginning of the Fourth Five Year Plan. The 20-points economic programme announced after the declaration of the emergency was calculated to reinforce that policy in the home of the weaker section of the population. Most of the significance of social policy in fact lies in bringing out the interrelationship of these concepts. It should be stressed that economic phenomena are in fact social phenomena, they are social in nature and are socially conditioned and have social consequences, and development planning limited to economic inter-relationship and neglecting social conditions and social implications, is bound to be misleading. It is most necessary to view that development process as a complex whole comprising economic elements *sensu stricto*, but also other social as well as political and administrative elements.

For this purpose, therefore the term, social policy has been used to denote three specific areas or aspects, namely:

- (i) the social objectives of state policy, including those of economic growth,
- (ii) the policy with regard to the promotion of social services as an integral part of a developing economy, and
- (iii) the policy governing promotion of social welfare services.

Indepth analysis of this experience brought forth a clear understanding of the interrelationship of economic growth with social policy and social development. This was enforced by studies of experiments carried out about the same time in other developing countries. Some of the salient features of these findings could be outlined as follows:

In the first place, it was firmly established that social development was not a by-product of economic growth. As a corollary, it also became evident that there was no dichotomy between economic growth and social development as implied in the earlier presumption. Economic growth and social change together came to be regarded as two aspects to the process of development which is single and indivisible in actual operation. It also helped to discover that social development was not confined only to the programme content of the social service in national development plan. Whether it was explicitly conceded or not, the relevance and immediacy of non-economic policy implications of economic growth were recognised as essential part of the whole strategy of development planning. Most of these non-economic elements of the development policy had a directive on social development. Broadly, they could be categorised under the following major heads:

- (i) a policy of distributive justice to reinforce the strategy focussed earlier exclusively on increased production,
- (ii) a policy of purposeful institutional change to match with modernisation of technology,
- (iii) a policy of employment promotion with a priority at least equal to if not higher than that of the growth of the GNP,
- (iv) a policy of development of human resources, and
- (v) a policy of people's participation in developing planning.

(g) Distributive Justice

Policy-maker, more than the planning technocrats, were sensitive to people's expectations from the development plans. They knew that it was not enough to be able to show progress in terms of the GNP alone. In order to mobilise intelligent and whole-hearted co-operation of the people in the implementation of development plans, it was vital to assure them in advance, of a fair share in the benefits of development. This was all the more essential since development planning was launched within a democratic

framework in India. Therefore, emphasis was naturally on voluntary consent and co-operation. As India is a developing country, it cannot afford to let the entire wealth and income produced by the development plans flow back into current consumption. It is necessary for it to plough back an essential part of increased wealth and income into investments for further growth, thus leaving only a small balance for immediate improvement in the level of living. If this small balance is not even spread out, there will be no incentive for the general mass of people to work or sacrifice for the distant and abstract gains of development.

(h) Institutional Change

The other social policy implications of the technological change also became evident both on empirical grounds as well as on doctrinaire considerations. It was found that modern technology, whether adopted wholesale from more advanced countries or adopted, to suit local conditions, was itself not enough for the modernisation of the economy. Certain institutional changes were gradually but surely recognised as the necessary concomitant of the transfer of technology. Take for instance the so-called Green Revolution, with a qualitative and quantitative improvement in the agriculture inputs, it was possible to bring about a certain increase in the output. This produced spectacular results over a short period of time, a season or two, given suitable weather, even a year or two . . . but sustaining such an increase and the improvement of production on an enduring basis was found to be beyond the mere material input. While modernisation of the implements and inputs was a necessary condition for sustaining it. This could be done only by bringing about side by side a suitable institutional change, for instance, land reform to match with the green revolution. This is another example of the relevance of social policy to economic growth and its impact on the social aspects of development.

(i) Employment Promotion

During the earlier periods of plan, it was assumed that with progressively larger investment, employment would automatically be generated. In fact, by working out some kind

of a ratio between investment and employment, the employment potential of each plan was announced at the beginning of each plan period. Very often, it was found that this employment potential failed to materialise to the extents estimated. Here again, although the correlation between investment and employment was admitted, it was discovered that the actual extent of employment potential depended on several factors in addition to investments, the backlog of employment and underemployment, the rate of growth of population, the number of entrants into labour market year after year, the rural-urban migration and the choice of technology, all together have a potential of a project. It needed considerable modification on the strategy of development planning. The choice and adaptation of the technology and balancing claims of modernisation and economics of scale with human need concern for more and better employment became evident in the revised strategies of development. The co-equal importance of employment with the growth in the GNP has come to be regarded as much a concern of social policy as of sound economic growth. This is yet another area which clearly brings out the indivisible nature of the development process where in the social and the economic element must fuse together to produce the desired impact.

(j) Human Resources

Traditional Orthodox planners were so much preoccupied with the so-called productive sectors like agriculture and industry, more industry and less agriculture that they paid very little attention to the development of social services. This was done in the belief that development of social services could follow after generating enough resources in the economy. Education, health, housing, etc. were looked upon as houses of economic growth. What was ignored in all this was the fact that even the economic growth in agriculture and industry has to be brought about by people who in turn had to be groomed, as it were, for the purpose. They had to be given the right kind of education and maintained in proper health before they could apply themselves fully and properly to the productive tasks in agriculture and industry. Thus, it was not a question of after growth service but on essential ingredient, if not a

prerequisite, of economic growth itself. During the first one or two plans, some of the advancing agricultural or industrial projects remained unimplemented or underimplemented for want of manpower with the right kind of orientation/training or education. Thus, the importance of social services, particularly education and health, was realised in the rebound. This fact came to be grudgingly reorganised as part of the social infrastructure required to promote economic growth. It was also referred to in the planning jargon as development of human resources. In doing so the priority according to education particularly vocational, technical training, was certainly raised but the approach still fell short of realising the correct and complete significance of the human element in development. It is doing less than justice to look upon the people only as a resource for economic growth.

(k) People's Participation

If there is one principle which has been reorganised in Indian planning from its inception, it is the importance of people's participation. However, this remained rather *ad hoc* and maintained until the beginning of the Second Plan. Later, as a result of a recommendation of the Balvantrai Mehta Committee on Development, democratic decentralisation was introduced. Later, this came to be known as the Panchayati Raj. Various states enacted legislation to give effect of this. Sufficient time has lapsed since the introduction of Panchayat Raj and it has already been evaluated several times. In the light of these evaluation studies, the limitations and the potential of people's participation in development Planning are quite well known. In any case, this is an aspect which emancipates exercise in economic growth from the exclusive hold of planning technocrats and gives it the necessary social orientation. Meanwhile, the whole concept of resource-based planning is itself being called into question. Never, approaches on the basis of immediate needs and improvements in the levels of living of the people are being tried out. These, in fact, are the result of the growing impact of the people on the social policy and of the social policy of the national development.

(I) Role of Judiciary

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The administrative justice, the chief task of the judiciary, comprises the third organ of the governmental machinery. The welfare of citizens greatly depends upon speedy and impartial justice. James Boyce has apply remarked this there is no better test of the excellence of a government than the efficiency of its judicial system. The judiciary is the guardian of the rights of man and it protects these rights from all possibilities of individual and public encroachments. The feeling is an average citizen that he can rely on the certain and prompt administration of justice. The liberty of the people is jeopardized, for there is no definite means which should ascertain and decide rights, punish crimes and protect the innocent from injury and usurpation. If the law be dishonestly administered says Bryce, the salt has lost its flavour, if the weakly and fitfully enforced, the guarantees or order fail, for it is more by the certainly than by the severity of punishment that offenders are repressed. If the lamp of justice goes out in darkness, how great is that darkness.

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In ancient polity the executive and the judicial function were combined. The early monarch was the fountain of justice. But it afterwards came to be realized that justice could not be secured if the judicial and executive functions were combined in one person. Historically, the concentration of power to interpret and administer in the same hands has always been associated with tyranny. Every citizen needs the amplest protection against the danger of a capricious interpretation of law. The modern state is, accordingly inconceivable without a separate judicial organ functioning independently and impartially.

Administration of justice is thus the chief function of judiciary. Courts are agencies for the decision of disputes between individuals, and between them and the state, and for the trial of persons accused for crime. But while deciding disputes and punishing criminals, courts do a number of important things beyond the settlement of controversies. The first thing that the court do is to investigate and determine facts. In the greater majority of cases is simply to determine facts according to the reorganised procedure. The procedure is that the parties involved in the case produce evidence.

Evidence consists of oral or written statements of witness. With the facts determined, the next step is to apply the existing law to such facts and render decisions. To a judge, it is a matter of no importance whether, in his opinion, the law is good or bad, just or unjust. He is to accept the law as it is and apply it to the ascertained facts. A judge is, therefore, the interpreter of law. / II week

B. SOCIAL WELFARE PLANNING

(a) Meaning of Planning

Dimack, defines planning as the use of rational design as contrasted with chance, the reaching of a decision before a line of action has started. In the words of Millett, planning is the process of determining the objectives of administrative effort and of devising the means calculated to achieve them. In short, planning is the conscious process of selecting and developing the best course of action to accomplish a defined objective. It is a comprehensive term and involves a succession term.

(b) Social Welfare Planning in India

After Independence, India has adopted the process of planning development with the objectives of raising living standard and opening up to the people new opportunities for a richer and fuller life. A specific aim of our planning is to promote social welfare and efforts have been made towards the development of social services. It is the people where in the final analysis are the architects of progress, even as they are the beneficiaries of necessity. Investment in the building up of the social capital has to be a massive scale in a country of the size of India. Investment in social services is such an investment which yields fruits over a long period of years, by adding to the quantity and excellence of the things done.

Substantial ground has been covered in the five year plans in providing schools for general education and technical trainings, medical and public health and family planning facilities, welfare of backward classes/tribes, houses for industrial workers low income earners and so on.

Ours is the planning age, planning is universal factor in