ARTICLE 39(B) OF THE INDIAN CONSTITUTION: A BRANCH OF THE "LIVING TREE"

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Delving into the Constitutional Philosophy underlying Article 39(b) and evolution of its interpretation, in light of the discussion on balancing Community Resources and Private Property, as re-ignited by Property Owners Association vs State of Maharashtra 2024.

ABSTRACT

This paper examines the evolving interpretation of Article 39(b) of the Indian Constitution, which mandates equitable distribution of material resources to serve the common good. Originally framed within a socialist vision of a welfare state, the article supported strong state intervention. However, recent jurisprudence—particularly the 2024 Property Owners Association v. State of Maharashtra decision—signals a shift toward balancing state control with individual property rights in light of India's liberalized economy. The paper traces this evolution through key judgments and engages with property theories from Locke, Hegel, and Radin, highlighting the tension between collective welfare and private ownership. Comparative perspectives from South Africa, Canada, the UK, and the USA further contextualize this shift. Ultimately, the study underscores Article 39(b)'s role as a dynamic constitutional tool that must reconcile changing economic realities with the enduring goal of social justice.

I. INTRODUCTION

The constitution of India is aptly celebrated as a "living tree" – as it continuously keeps growing and evolving to meet the newly emerging requirements of the evolving socio-economic realities, while also preserving its basic foundational philosophy and character (*Boruah, 2018)*. A branch of this living tree is Article 39(b), which is a part of the Directive Principles of State Policy. Article 39(b) has been an epitome of adaptability of our constitution.

Article 39(b) provides "*that the ownership and control of the material resources of the community are so distributed as best to subserve the common good" (Constitution of India, 1950)*. It reflects the vision of framers of the constitution, i.e. of a Welfare state, where socio-economic justice underpins governance. Initially, the article was interpreted through a socialist lens, giving priority to state-led redistributive policies to ensure collective welfare. Landmark judgements like Sanjeev Coke 1983 upheld the state's power to intervene in private property rights, in order to achieve the egalitarian goals as enshrined in our constitutional philosophy.

However, over decades, the interpretation of Article 39(b) mirrored the economic transition of the country. The Supreme Court judgement in Property Owners Association v. State of Maharashtra (2024) (*hereinafter, Property Owners Judgement)* signalled a paradigm shift. The court said held during the decades of 1960s and 1970s, there was a tilt towards socialist economy. But 1990s onwards, as the country moved towards a market oriented economy, the interpretation of the article must also reflect the contemporary realities *(Times of India, 2024)*. Therefore, the court took a narrow interpretation of the article and narrowed its scope, trying to strike the right balance between community welfare and individual property rights; our original constitutional philosophy, which reflected the realities of those times and the needs of India as an emerging global economy.

This paper explores the origin, and the historical and judicial evolution of Article 39(b), critically analyzing its re-interpretation in the Property Owners Judgement in light of the constitutional philosophy underlying the provision.

II. HISTORICAL BACKGROUND OF ARTICLE 39(b)

Article 39(b): The need of That hour

The origins of Article 39(b) can be traced to the need arising out of the socio-economic realities of the newly Independent India. In the 1940s and at the time of framing of Constitution, the country was facing stark inequalities in land ownership and distribution, and access to resources (*Dhulia, 2024)*. Majority of the population lived in rural areas. The agrarian economy was heavily dependent on land, which had suffered a lot under colonial policies that exacerbated the concentration of land and wealth in the hands of a few (*Iyer & Banerjee, 2005)*. But the ownership of land was concentrated among zamindars and landlord. This further perpetuated poverty and exploitation (*Adhia, 2015)*. Similarly, the industrial sector, while growing, was characterised by concentration of wealth in the hands of a few industrialists *(Patnaik, 1979)*.

This glaring disparity prompted the drafters of the Constitution to envision a framework for a welfare state that would strive for social and economic justice (*De & Shani, 2023)*. It is of this vision, Article 39(b) formed a critical pillar of.

Constituent Assembly Debates: The Man-Made Tug-of-war over Natural resources

The constituent assembly debates reveal that there was a consensus on the need for equitable resources, but differences emerged over the extent of the state intervention. Some members, influenced by socialist principles, argued that comprehensive state control over these resources was necessary in order to remove the systematic inequalities that were prevalent in the society of those times. Some argued too much of state regulation will hamper individuals rights.

Article 39(b) was originally introduced as Article 31(ii) . Professor KT shah proposed an amendment to ensure that all the natural resources are owned, controlled and and managed by the state. Proposed substitution was "*The ownership, control, and management of natural resources such as mines, forests, rivers, and flowing waters shall vest in and belong to the country collectively, to be exploited and developed on behalf of the community by the State"* He used terms like "*vest*" to mandate state ownership rather than leaving it open to interpretation. He argued that these resources are a "gift of nature" and exploitation of these, by private monopolies, is detrimental to national interest. State regulation was necessary to prevent abuse and ensure long-term development, according to him. On the other hand, Dr. BR Ambedkar argued that the broad language of the original text, such as "*sub-serve the common good*," was deliberately chosen. It was done with the aim to allow future governments the flexibility to adapt economic policies according to the needs of the time. According to him, prescribing specific mechanisms like state ownership or nationalization, would impose a rigid economic framework on the Constitution. This could stifle the adaptability required for evolving economic and social priorities. Therefore, after long deliberations, the original text was retained *(Constituent Assembly Debates, 1948*).

Constitutional Philosophy and the Welfare State: Equity in Action

Article 39(b) encapsulates the constitutional philosophy of building a welfare state - wherein the state assumes responsibility for ensuring socio-economic justice in the society. The framers were deeply influenced by the ideals of justice, liberty, and equality as enshrined in the Preamble *(Basu, 2022)*. These values emphasised on individual rights as well as creation of an egalitarian society, where resources are distributed equitably for the collective benefit *(Jain, 2018)*. The Directive Principles, including Article 39(b), were inspired by the Irish Constitution and Gandhian principles. They reflect the commitment to addressing structural inequalities and uplifting the marginalized. Even though DPSPs are not legally enforceable, they serve as a moral compass for governance as they guide state actions to align with the Constitution’s overarching vision of social and economic justice *(Ambrose, 2013)*.

The welfare state envisioned under Article 39(b) emphasizes the role of the state in managing resources to achieve the "*common good.*" This concept entails the redistribution of material resources to reduce wealth disparities, ensure equitable access, and promote inclusive development. The state’s power to intervene in property rights under this framework underscores the balance between individual rights and societal welfare *(Chandrachud, 2024)*.

III. EVOLUTION OF INTERPRETATION OF ARTICLE 39(b) AND IMPLICATIONS

The judicial interpretation of Article 31(b) has evolved significantly, mirroring India’s shifting socio-economic realities. The early challenges of our republic necessitated the state's active role and focus on planning, a mixed economy, heavy industries, and import substitution policies (*Chandrachud, 2024)*. Late 1960s and 1970s saw a shift towards purportedly ‘socialist’ reforms and policies *(De, 2023)*. 1990s onwards were the decades of liberalisation prompting a shift towards a policy of market-based reforms, And now, the Indian economy has transformed into one characterised by co-existence of public and private investment *(Ministry of Finance, 2024)*.

Initial Interpretations: A Socialist Lens

Early years' interpretation aligned with India's socialist aspirations. Landmark cases like State of Bihar v. Kameshwar Singh (1952) upheld legislation (Bihar Land Reforms Act, 1950) which was introduced to eradicate the Zamindari system and redistribute the lands to the needy. Similarly, verdict in Kesavananda Bharati v. State of Kerala (1973) acknowledged the significance of Article 39(b) in achieving socio-economic justice and thus placed it within the broader framework of the Constitution's basic structure.

Expanding the Scope: Privately Owned Resources

In State of Karnataka v. Ranganatha Reddy (1977), Justice Krishna Iyer's interpretation expanded the scope of Article 39(b). He, in his dissenting opinion, asserted that privately owned resources could also be considered "*material resources of the community.*". Later, this view gained traction in Sanjeev Coke Manufacturing Co. v. Bharat Coking Coal (1983), where the Court upheld nationalization of the coal mines under Article 39(b). These cases underscored the socialist ethos of equitable redistribution *(Naniwadekar, 2009)*. In Mafatlal Industries Ltd. and Ors. vs. Union of India (UOI) 1997, the term "*material resources"* was interpreted as inclusive of not only the natural resources, but also of moveable and immoveable property; and also private and public sources of meeting material needs. In Re: Special Reference No. 1 of 2012, (2012), the term "*distribute*" was interpreted widely, including all forms and methods of distribution. In the same case, "*common good*" was interpreted as the factor that would guide Article 39(b).

The Recent Development: A Balanced Approach

The recent judgment in Property Owners (2024) marks a shift toward a more balanced interpretation. It narrowed the scope of Article 39(b), emphasizing that with serving the common good, it is also the duty of the state to protect private property rights *(Bhaumik, 2024)*. CJI Chandrachud highlighted the need of applying "living Constitution" for understanding contemporary issues and rejecting rigid economic doctrine. In order to determine if a resource falls under the scope of Article 39(b), context and a non-exhaustive list of factors - like nature, characteristic, impact on public welfare, tis abundance and scarcity, and most importantly the implication of its concentration in private hands, etc. and the the "Public Trust" doctrine must be considered *(Chandrachud, 2024).*

Constitutionally, the decision signals a slight shift from the welfare state model to one that is characterised by individual rights protection and liberal economic principles, and the evolution of constitutional philosophy. By delineating stricter boundaries for state intervention in private property, it also reflects global trends favoring private property protections in market-driven economies. Additionally, it also acknowledges the state's role in advancing social justice, but within limits that respect individual ownerships.

Critics might contend that limiting the state's ability to intervene in private property hinders inclusive growth and eradication of systematic disparities *(McKay, 2017)*. Conversely, proponents might argue that the decision aligns with India's liberalization trajectory, needed for an investment and innovation friendly stable environment. The Court's emphasis on balancing state intervention with individual rights resonates with the dynamic nature of the Indian Constitution, which must adapt to changing economic and social contexts.

IV. CRITICAL ANALYSIS OF THE NEW POSITION

A look through the Jurisprudential lens

Abraham Bell's Unified Value Theory emphasizes the societal value inherent in stable property ownership (*Bell, 1989)*. The judgment reflects this theory by framing private property as a "material resource of the community," contingent on its societal utility. Court rejected Justice Krishna Iyer's expansive Marxist interpretation and adopted Bell's pragmatic, value-oriented framework that balances individual ownership with communal benefits. The judgement also reflects Hegel's theory of property as a vehicle for self-actualization and Locke's labor theory, which ties ownership to labor *(Hegel, 1996; Locke, 1690)*. It argues that private property can become community property through mechanisms such as voluntary donations or nationalization with due compensation, thus respecting individual labor while serving collective welfare. Furthermore, Justice Nagarathna's dissenting opinion resonates with Jeremey Bentham's utilitarian view of property as a legal construct, which can be moulded for the benefits of the welfare of the majority *(Bentham, 1931)*. Finally, Justice Dhulia's emphasis on humanist principles reflects Radin's theory of property and personhood which posits that certain forms of property are intrinsically linked to an individual's identity and autonomy. Infringing upon individual property rights and alienation of personal property may inflict profound harm on an individual's personhood *(Radin, 1982)*.

Comparative International Perspectives: Mapping Property Rights Across the Globe

Globally, constitutional approaches to resource distribution and property rights vary. South African post-apartheid Constitution, for instance, mandates land reform and equitable resource distribution under Section 25 or the "*property clause*." Courts have upheld the state's authority to expropriate property for redistribution, balancing individual rights with historical injustices (*Viljoen, 2021)*. Similarly, in Canada, the "living tree" doctrine allows the Constitution to adapt to contemporary needs while retaining its foundational principles *(Waluchow, 2017)*. Canadian courts have balanced property rights with social welfare (for instance - cases involving indigenous land claims) underscoring the importance of equitable resource management for the common good (*Tsilhqot'in Nation v. British Columbia,* 2014).

In the United Kingdom, property rights are protected under the Human Rights Act (1998). The act incorporates Article 1 of Protocol 1 of the European Convention on Human Rights, which lays down - "*Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.*" The extent of interference by the state is governed by the principle of proportionality. This ensures that public benefits outweigh individual property losses *(Ristroph, 2005)*. In contrast to the UK's primacy to individual property rights, Indian positions depict a strong focus on redistributive justice embedded in Article 39(b).

By contrast, the United States takes a more stringent approach to property rights under the Fifth Amendment's Takings Clause. It permits expropriation strictly for "*public use*" and mandates "*just compensation*." U.S. courts often limit "*public us*e" to initiatives with clear direct benefits, as laid down in cases like *Kelo v. City of New London*. This model emphasizes individual ownership but has been criticized for prioritizing private property at the expense of socio-economic equity *(Gostin, 2006)*. Unlike India, where Article 39(b) provides a broad socio-economic remit for public interest, the U.S. framework reflects a more market-oriented conception of property rights, sometimes perpetuating economic disparities.

V. CONCLUSION

The evolution of interpretation of Article 39(b) by Judiciary, reflects the dynamic interplay between India's constitutional philosophy, as envisaged by the framers of our constitution and the contemporary socio-economic realities which we face today. Initially rooted in a socialist framework, understanding of Article 39(b) evolved through various stages with our economic transition, and now culminated into the position laid down by Property Owners (2024), which emphasizes private property rights alongside community welfare, trying to strike the right balance between the two. This shift reinforces the constitutional protection of individual freedoms, reflecting India's growing emphasis on market-driven growth and liberalization, which began in the 1990s and the decades that followed. The judgement is projected to have a significant impact on state's policies pertaining to land redistribution. The challenge lies in achieving a balance that preserves the moral and egalitarian objectives of Article 39(b) while ensuring economic dynamism and respecting individual rights. Drawing on international experiences and jurisprudential theories, India must continue to interpret its Constitution as a "living tree", adapting to present challenges without forsaking its foundational commitment to socio-economic justice and the common good. This balanced approach will ensure the enduring relevance of Article 39(b).

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